

Circuit Court for Baltimore County
Case No. C-03-CV-21-002908

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1317

September Term, 2022

IN THE MATTER OF RED MAPLE PLACE
LIMITED PARTNERSHIP

Friedman,
Zic,
Curtin, Yolanda L.
(Specially Assigned),
JJ.

Opinion by Zic, J.

Filed: March 14, 2024

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from a dispute concerning the development of an affordable housing apartment complex in the East Towson neighborhood, located in Baltimore County, Maryland, by developer Red Maple Place Limited (“Red Maple”), appellee. Pursuant to the Baltimore County Code (“BCC”), Red Maple’s development plan had to be approved by a Hearing Officer, in this case an administrative law judge (“ALJ”). BCC §§ 32-4-227(a), (e)(2) (“[F]inal action on a Development Plan may not be taken until after a public quasi-judicial hearing before a Hearing Officer[,]” and “[i]f no comments or conditions are received by the Hearing Officer, the Development Plan shall be considered to be in compliance with county regulations.”). Following a five-day hearing consisting of testimony from numerous community witnesses and Baltimore County reviewing agencies, the ALJ approved the development plan. Interested East Towson residents, a nearby condominium association, and the Northeast Towson Improvement Association, collectively referred to as “Appellants,” appealed the ALJ decision to the Baltimore County Board of Appeals (the “Board”), who reversed. Red Maple then appealed to the Circuit Court for Baltimore County, who reversed the Board’s decision and affirmed the original ALJ decision approving the development plan. Appellants then filed a timely notice of appeal for judicial review.

The focus on appeal is confined to whether Resolution No. 111-20 subjects the parcel on which the at-issue building is to be situated to only the Design Review Panel (“Review Panel”), or whether it also subjects the parcel to the East Towson Design Standards (“Design Standards”). The Review Panel and Design Standards are two of many manuals covering standards or requirements that may or may not be applicable to

any given development project in Baltimore County. We hold, and explain below, that given the plain language of the Resolution, the parcel is subject only to the Review Panel and is not subject to the Design Standards. We therefore affirm the circuit court’s decision to reverse the Board’s decision and affirm the ALJ’s approval of the development plan.

QUESTIONS PRESENTED

Appellants raise one question on appeal, rephrased as follows:¹

Did the circuit court err in concluding that Resolution No. 111-20 expanded only the Review Panel area map to include the subject property, and it did not expand the Design Standards area map to include the subject property?

For the reasons that follow, we answer this question in the negative, and therefore affirm the judgment of the circuit court.

BACKGROUND

In Baltimore County, development plans like the type involved in this appeal are approved by a multi-step review process that culminates in a quasi-judicial hearing before an ALJ, which is itself subject to review by the Board.

¹ The Appellants phrase the question as follows:

Did the Circuit Court err in concluding that the County Council’s passage of Resolution 111-20 merely expanded the design review area in East Towson but did not subject the expanded area, including the subject property, to applicable provisions in the Comprehensive Manual of Development Policies (“CMDP”), namely the East Towson Design Standards?

Red Maple, owned by Homes for America, has attempted to develop the subject property for an affordable housing apartment complex since 2018. The subject property consists of two adjoining parcels situated in between E. Joppa Road and E. Pennsylvania Avenue in East Towson: one parcel (the “Northern Parcel”) fronts E. Joppa Road; the other parcel (the “Southern Parcel”) sits below the Northern Parcel and fronts E. Pennsylvania Avenue. The development plan proposes a four-story, 56-unit apartment building to be built on the Northern Parcel while the Southern Parcel, which is situated slightly downhill from the Northern Parcel and consists of forest area, natural vegetation, a stream, and wetlands, will remain undeveloped. The Northern Parcel is the subject of this appeal.

The two parcels are near East Towson. The East Towson neighborhood is a historic African American community carrying a rich, meaningful history. The community was founded in the pre-Civil War era by people who were previously enslaved. Many residents living in the East Towson neighborhood today are descendants of those founders. In the words of the ALJ, a major concern of Appellants is the “prior years of intrusions by the County and businesses into the Historic East Towson neighborhood” that have acted to “erase” the neighborhood.² While not the issue on

² The ALJ described in detail the erasure of Historic East Towson. East Towson began as a community of “freed slaves who built homes, raised families, and continued to thrive against all odds in this self-contained[] neighborhood.” Within recent history, original homes built by formerly enslaved people were destroyed in order to make room for other projects. In the 1960s, the construction of Fairmount Avenue “physically separated” this once cohesive neighborhood into two separate areas. Then, original homes were torn down to build a parking lot for Black and Decker, and then again for a
(continued)

appeal, it is pertinent to note that the ALJ concluded that “the evidence does not support the conclusion that an apartment building in the commercial corridor of E. Joppa Rd., on the Northern Parcel will negatively impact this unique neighborhood.”

The Administrative Law Judge’s Decision

In Baltimore County, a land developer must apply to develop land. An applicant first submits a concept plan outlining the development, receives County agency comment on the concept, presents the plan at a community input meeting, and then creates a finalized development plan which undergoes detailed review for compliance with various County agencies. BCC §§ 32-4-211-217, 221, 226. In accordance with Article 32, Title 4 of the BCC, the applicant must then present the development proposal at a public hearing under the Office of Administration Hearings (“OAH”) before a Hearing Officer, often an ALJ. Red Maple’s public hearing was conducted over five days, beginning on November 19, 2020. The BCC § 32-4-229 “mandates that a Hearing Officer grant approval of a development plan which meets all of the development rules, regulations and applicable policies[.]” Pursuant to the BCC, “a Hearing Officer *may not deny* a development plan which” satisfies those regulations. BCC § 32-4-229 (emphasis added). Approval from a Hearing Officer, here an ALJ, is “just the first step” in the development process, and County agencies continue to review the plans to ensure compliance with applicable laws and regulations. *Monkton Pres. Ass’n v. Gaylord Brooks Realty Corp.*,

Baltimore Gas and Electric (“BGE”) substation, and again for a condominium complex. Regarding the BGE substation, the ALJ found that it is an “egregious intrusion and presents an actual danger to the residents” living there. The ALJ stated that if she had the authority, she would order the BGE station relocated.

107 Md. App. 573, 585 (1996). The ALJ reviewed exhibits, evidence, and testimony from 38 individuals including numerous agency representatives and concerned citizens. The testifying agencies included the Department of Permits, Approvals, and Inspections; Development Plan Review; the Department of Recreation and Parks; the Office of Zoning Review; Environmental Protection and Sustainability; and the Department of Planning. The ALJ then concluded in a 62-page opinion that Red Maple’s development plan satisfied all of the agencies’ requirements, and therefore approved the plan to build the apartments on the Northern Parcel.

Resolution No. 111-20

Prior to Red Maple’s November 19, 2020 public OAH hearing before the ALJ, however, the Baltimore County Council passed Resolution No. 111-20 (the “Resolution”) on October 5, 2020. The Resolution “designat[ed] Historic East Towson as a *Design Review Area, subject to review by the Design Review Panel.*” (emphasis added).

Resolution No. 111-20. It states, in relevant part:

[T]he Historic East Towson Design Review Area, the boundaries of which are described in the map attached hereto as Exhibit “A,” is hereby designated as a design review area for residential and non-residential development pursuant to Bill 100-20; and . . . that the map attached hereto as Exhibit “A” shall in all respects supersede the previously adopted map dated October 12, 2016 and known as the “*East Towson Design Review Panel Area*[.]”

Resolution No. 111-20 (emphasis added). The Resolution expanded the “Design Review Area” to include, among other properties, the Northern Parcel of the subject property. It accomplished this by amending a map “known as the East Towson Design Review

Panel” area map. (In this opinion, as described above, we refer to the “Design Review Panel” as the “Review Panel.”³) This new Review Panel map now includes the Northern Parcel. Prior to the Resolution, the Review Panel area map did not include the Northern Parcel.

Review Panel

Pursuant to BCC § 32-4-204(a), the Baltimore County Council may “designate areas of the County in which development plans are subject to review by the [Review Panel,]” much like Resolution No. 111-20. The Review Panel consists of nine professional members who have knowledge of architecture and design, as well as rotating members who are residents of Baltimore County’s districts. The Review Panel is intended to be an advisory group, meant to “encourage design excellence” and to assess proposed development plans under specified County Code criteria. BCC § 32-4-203(b)(2). The Review Panel’s manual is contained within Baltimore County’s Comprehensive Manual of Development Policies (“CMDP”). The CMDP is a “manual that determines particular policies for [residential and commercial] development in Baltimore County.”

The Review Panel manual begins on page 193 and contains an associated map on page 204 which designates the areas which must be reviewed by the Review Panel.⁴ The

³ See page 1 for additional explanation.

⁴ The record indicates that all parties agree that the map within the Review Panel manual designates the areas which must be reviewed by the Review Panel. The ALJ explained:

(continued)

Review Panel manual’s map is labeled “East Towson Design Review Panel Area.” (In this opinion, as described above, we refer to the “East Towson Design Review Panel Area” as the “Review Panel” manual and/or map.⁵) The ALJ found that the Review Panel manual and map were published on October 12, 2016.⁶

[T]he CMDP contains the East Towson Design Review Panel Area [referred to in this opinion as the “Review Panel”] as a map on p. 204[,] . . . [which] did not include the Northern Parcel. . . . With the passage of Resolution 111-20, on October 5, 2020, the County Council enlarged the [Review Panel area map] thereby replacing the 2016 [Review Panel area map] from CMDP (p. 204) with an updated 2020 version In doing so, the 2020 [Review Panel area map] now includes not only the Northern Parcel but the entire block between Fairmount Avenue to the access drive for Black and Decker.

Red Maple’s brief also contains the above quoted portion of the ALJ opinion. Appellants’ brief states that the Review Panel map before the Resolution was passed, “showed only the Southern Parcel, not the Northern Parcel, as being within the boundaries of the [Review Panel] Area.” The Baltimore County Board of Appeals also wrote that the “South Parcel was already within the purview of the [Review Panel manual and area map]” but that the Resolution “added” the Northern Parcel to the Review Panel area. The circuit court quoted the ALJ just as Red Maple does above, and also stated that “Resolution No. 111-20 clearly changed the boundaries of the [Review Panel] Area.”

In order for both parties, the ALJ, the Baltimore County Board of Appeals, and the circuit court to make the above quoted statements, they must all agree that the Review Panel’s map designates the areas which the Review Panel must review.

⁵ See page 1 for additional explanation.

⁶ The portion of the CMDP which was supplied in the record does not confirm or dispel this factual finding. Appellants argue that “there is no evidence that the [Review Panel map] . . . is the October 12, 2016 map referenced in the Resolution” because “the map . . . is not dated, nor is the [Review Panel] section of the CMDP in which the map is located.” (emphasis in original).

The Baltimore County Board of Appeals did not address this issue. In its own words, the Baltimore County Board of Appeals stated that it “does not make independent findings of fact nor substitute its judgment as to factual determinations for that of ALJ

(continued)

After the Resolution was enacted, the Review Panel reviewed Red Maple’s proposed development plan for the Northern Parcel according to the Review Panel guidelines in a meeting held on November 10, 2020. The Review Panel approved the plan with certain conditions. Upon satisfaction of the Review Panel’s conditions, the county agencies recommended the development plan for approval. These conclusions were presented to the ALJ at Red Maple’s OAH hearing where the ALJ subsequently approved the development plan.

Design Standards

The CMDP contains 291 pages of standards which may be applicable to a given development project. The Review Panel manual within the CMDP refers by name to the Design Standards manual, a separate document created in 2003 as part of a community plan. On page three of the Design Standards manual there is a map labeled a “Boundary Map” for the “East Towson Area.” This map overlays three sets of markings corresponding to a different boundary’s area. A legend depicts three different markings corresponding to a specific boundary. There is a “Design Standards” boundary map, a “Zoning Boundary and Designation” boundary map, and a “Design Review Panel

below.” The circuit court quoted the ALJ’s factual finding that the Review Panel map was published on October 12, 2016. The Resolution also stated that the “East Towson Design Review Panel Area” map (in this opinion, we refer to this as the “Review Panel” map) was adopted on October 12, 2016. Our holding does not depend on having the precise date of October 12, 2016 because the Resolution only names the Review Panel map and not the Design Standards map. (See the “Discussion” section of this opinion for further explanation.)

Boundary” map superimposed on to one map.⁷ Considering that the legend describes one set of markings on the map as the “Design Standards Boundary,” that the map is located within the Design Standards manual on page three, and that the map is titled as a “Boundary Map” for the “East Towson Area,” the ALJ concluded that the Design Standards manual and criteria apply to the portion of the Boundary Map that corresponds to the area labeled “Design Standards.” This outlined area does not include the Northern Parcel.

The Design Standards criteria are intended to “ensure that any new development is compatible with the historic, residential character of the [East Towson] neighborhood.” These Design Standards include limiting structures to a maximum of two-and-a-half stories, dictating the materials used for the exterior of homes, and requiring trees to line sidewalks and streets, among other detailed guidelines. It is undisputed that the apartment complex at issue does not meet these requirements.

Red Maple argues that its development plan is not subject to the Design Standards because the Northern Parcel is not contained within the Design Standards map. They further argue that the Resolution’s new map, which contains the Northern Parcel, only replaces the Review Panel map and not the Design Standards map. Appellants argue that the Resolution’s new map containing the Northern Parcel replaces both the Review Panel and the Design Standards map, subjecting the Northern Parcel to the Design Standards. The ALJ found that the plain language of the Resolution’s new map updated and

⁷ The ALJ explained that the Design Standards map “show[s] 3 different boundary areas” including the “Design Standards Boundary[.]”

expanded only the Review Panel area to include the Northern Parcel. Therefore, the Design Standards map remains unchanged and does not include the Northern Parcel.

Baltimore County Board of Appeals

Pursuant to the BCC, an aggrieved party has the right to an appeal before the Board from the ALJ's decision on a development plan. BCC § 32-4-281(b)(1) ("A person aggrieved or feeling aggrieved by final action on a Development Plan may file a notice of appeal with the Board of Appeals . . . within 30 days after the date of the final decision of the Hearing Officer."). Appellants appealed the ALJ opinion to the Board. While the Board has discretion to allow additional evidence and testimony, here, in the introductory language of its opinion, the Board identified that it was conducting an "on the record" review. BCC § 32-4-281(d).⁸ The Board reversed the ALJ decision, finding

⁸ According to BCC § 32-4-281(e), the actions the Board may take when reviewing an ALJ or Hearing Officer decision are to:

- (i) Remand the case to the Hearing Officer;
- (ii) Affirm the decision of the Hearing Officer; or
- (iii) Reverse or modify the decision of the Hearing Officer if the decision:
 - 1. Exceeds the statutory authority or jurisdiction of the Hearing Officer;
 - 2. Results from an unlawful procedure;
 - 3. Is affected by any other error of law;
 - 4. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
 - 5. Is arbitrary or capricious.

that the legislature’s intent of the Resolution must have been to include the Northern Parcel in both the Review Panel area map and the Design Standards area map.

Circuit Court for Baltimore County

Red Maple then petitioned for judicial review to appeal the Board’s decision. The circuit court reversed the Board and found that the ALJ correctly interpreted the unambiguous Resolution as plainly written. The circuit court explained that the Board ignored the Resolution as written and included legislative intent that was not part of the record. The court explained that the ALJ’s factual determinations were supported by substantial evidence and were not subject to review by the Board. Furthermore, the court found the ALJ conducted a proper legal analysis.

As explained below, we agree with the ALJ and the circuit court that given the plain text of the Resolution, it only expanded the Review Panel area map to include the Northern Parcel, and therefore approval of the development plan was appropriate.

STANDARD OF REVIEW

“When reviewing the decision of an administrative agency, . . . we review the agency’s decision directly, not the decision of the circuit court.” *Wallace H. Campbell & Co., Inc. v. Maryland Com’n on Human Relations*, 202 Md. App. 650, 661 (2011). We “determine[] whether the administrative agency itself erred.” *Becker v. Falls Rd. Cmty. Assoc.*, 481 Md. 23, 42 (2022). As to which agency is the “final administrative decision for purposes of judicial review[,]” both parties urge us to review the ALJ’s opinion rather than the Board’s opinion; however, the Supreme Court of Maryland has held that the Board – and not the ALJ – is the “final administrative decision related to” developmental

plans and thus the Board’s opinion is subject to review by appellate courts. *Id.* at 42 n.5 (holding that the Board’s decision is the “final administrative decision for purposes of judicial review under Maryland Rule 7-201”). Given that this Court looks through the circuit court to review the final administrative decision on appeal, we focus our review on the Board’s decision.

Red Maple argues we should construe the question as a mixed question of law and fact. The question before us – whether the Resolution subjects the Northern Parcel to the Review Panel and the Design Standards, or just the Review Panel – is a matter of statutory interpretation. Statutory interpretation is purely a question of law which is reviewed *de novo*. *Schwartz v. Maryland Dep’t. of Nat. Res.*, 385 Md. 534, 554 (2005).

To determine if an administrative agency erred, we review the agency’s factual findings and legal conclusions. *Comptroller of Maryland v. FC-GEN Operations Invs. LLC*, 482 Md. 343 (2022). We consider whether there was substantial evidence in the record to support the agency’s factual findings and inferences, and whether the agency’s legal decisions were based on correct conclusions of law. *United Parcel Serv., Inc. v. People’s Counsel for Balt. County*, 336 Md. 569, 577 (1994).

Review of Factual Findings

We review an agency’s factual findings under the substantial evidence standard. *FC-GEN Operations*, 482 Md. at 359. The test for substantial evidence is whether a reasonable mind could have reached the agency’s conclusion. *Baltimore Lutheran High School Assoc., Inc. v. Employment Sec. Admin.*, 302 Md. 649, 662 (1985). If such substantial evidence exists in the record, we will defer to the facts found and the

inferences drawn by the agency. *FC-GEN Operations*, 482 Md. at 359. We review the factual findings “in the light most favorable to the agency and trust[] the agency’s resolution of ‘conflicting evidence’ and inferences drawn.” *FC-GEN Operations*, 482 Md. at 359 (citation omitted).

Review of Legal Conclusions

For a conclusion of law, the review is typically *de novo* “for correctness.” *FC-GEN Operations*, 482 Md. at 360 (citing *Schwartz*, 385 Md. at 554).

Deference to an agency’s legal conclusions is “extend[ed] only to the application of the statutes or regulations that the agency administers.” *People’s Counsel for Balt. County v. Loyola Coll. in Maryland*, 406 Md. 54, 67-68 (2008). “With respect to deference given to a state agency’s interpretation of a statute that it administers, we have applied either a ‘no deference’ approach, or ‘some deference’” approach. *FC-GEN Operations*, 482 Md. at 360 (quoting Arnold Rochvarg, *Principles and Practice of Maryland Administrative Law*, §§ 19.1-19.3, 243-49 (2011)). “[W]e may apply a *degree* of deference to an administrative agency’s legal conclusion . . . premised upon an interpretation of the statutes that the *agency administers*” *FC-GEN Operations*, 482 Md. at 362 (emphasis added). “When a party challenges the agency’s interpretation of the statute the agency administers, the court must assess how much weight to accord that interpretation, keeping in mind that it is ‘always within [the court’s] prerogative to determine whether an agency’s conclusions of law are correct.’” *Id.* (citation omitted). More weight is given to an agency’s interpretation if it resulted from “a process of ‘reasoned elaboration’ by the agency, when the agency has applied that interpretation

consistently over time, or when the interpretation is the product of contested adversarial proceedings or formal rule making.” *Id.* at 363 (citation omitted). No deference is accorded to an agency’s erroneous conclusions of law. *Loyola College*, 406 Md. at 67-68.

In order for this Court to give deference to the Board’s legal conclusions, the Board must in some way be charged with “administer[ing]” the at-issue Resolution. *FC-GEN Operations*, 482 Md. at 362. Here, the parties’ briefs do not provide evidence of this charge, and the record does not shed any further light on the issue. Even without clarifying whether the agency in this case administers the Resolution, the Board is not owed deference because the Board’s legal conclusions are clearly erroneous. As described below, the Board’s legal analysis and conclusions go against the plain language of the Resolution and clear principles of statutory interpretation. Therefore, the Board is owed no deference and we review *de novo* as to the issue of whether the Resolution subjects the property at issue to the Review Panel and the Design Standards, or just the Review Panel.

DISCUSSION

I. THE BALTIMORE COUNTY BOARD OF APPEALS ERRONEOUSLY FOUND RESOLUTION NO. 111-20’S MAP REPLACED BOTH THE REVIEW PANEL’S MAP AND THE DESIGN STANDARDS MAP.

Appellants argue that the Resolution expanded the application of the Design Standards to the Northern Parcel when it expanded the Review Panel area. They argue to find otherwise would render the Resolution meaningless. Red Maple counters that

according to the plain language of the Resolution, it only expanded the Review Panel area map.

When interpreting a statute or regulation, we endeavor to implement the intent of the legislature by starting with the plain text. *Price v. State*, 378 Md. 378, 387 (2003) (concluding that “the legislative intent of a statute primarily reveals itself through the statute’s very words”); *Lyles v. Santander Consumer USA Inc.*, 478 Md. 588, 601 (2022) (citing the “[w]ell-settled” principle that “the legislature’s intent is expressed in the statutory language and thus our statutory interpretation focuses primarily on the language of the statute to determine the purpose and intent” of the legislative body).

Here, the Resolution refers, by name, only to the Review Panel. The Design Standards manual is not cited. The Resolution states that the new Review Panel map “shall in all respects supersede the previously adopted map dated October 12, 2016 and known as the ‘East Towson Design Review Panel Area.’” Resolution No. 111-20. The Review Panel map has an identical title to what is stated in the Resolution. The Review Panel map is titled “East Towson Design Review Panel Area.” Therefore, the Resolution is clear in its instruction: the Review Panel area is expanded according to the new map, which replaces the previous Review Panel map. The Design Standards manual is dated for 2003, not 2016 as specified in the Resolution. Therefore, out of the two manuals and maps, the Resolution’s stated name and date can only be to identify the Review Panel map.

Appellants argued and the Board agreed that it is illogical for the Resolution to adjust only one map and not the other because then the two maps outline different areas;

however, according to the maps presented in the record, from the time the two maps have both existed, the 2003 Design Standards area map and the Review Panel area map *have never aligned*. The two maps depict two different outlined areas. As the ALJ explained, the Design Standards map delineates different boundaries by overlaying three maps onto one page. By overlapping three sets of markings corresponding to each boundary's area, it differentiates the Design Standard's boundary from both the "Zoning Boundary and Designation" boundary map and the "Design Review Panel Boundary" map. Each depicted boundary identifies a different area.

Appellants argue that by superseding the Review Panel map, the Resolution *meant to* also replace the 2003 Design Standards area map. Appellants and the Board look solely to a supposed legislative intent that is not evidenced in the record rather than the plain language of the Resolution. The Board wrote:

Resolution 111-20 was drafted, introduced, and enacted with the *express intention* of influencing this Development. Its *stated intention* was to take one single solitary parcel – the lot known in this case [as] the North Parcel – and place that lot within the area of East Towson subject to review by the [Review Panel]. . . . The only reasonable construction of Resolution 111-20 . . . is to conclude that the Council intended that the design criteria [i.e., Design Standards manual] was also meant to apply to the expanded area.

(emphasis added).

The Board wrote that the Resolution's "stated intention" is to replace the Review Panel area map, and that the Review Panel must now apply the Design Standards criteria to the Northern Parcel. As the circuit court explained, "[t]he Board's Opinion suggests

much about its view of the legislative process that is not part of the record.”⁹ To suggest that unsubstantiated legislative intent overrules the plain, unambiguous text of a statute is contrary to Maryland jurisprudence. *Price*, 378 Md. at 387 (“[A]ll statutory interpretation begins, and usually ends, with the statutory text itself, for the legislative intent of a statute primarily reveals itself through the statute’s very words. A court may neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute.”) (cleaned up).

Appellants contend that “[i]t would make no sense for the County Council to have intended to revise the [Review Panel] area for East Towson, but not subject that area to the [Design Standards] . . . [because] [s]uch a construction would render the Resolution meaningless, if not illogical.” Refusing to read into the statute that which is not there does not render the Resolution meaningless. The development plan had been scheduled for a hearing before the ALJ prior to the passage of the Resolution. Once the Resolution was passed, just six weeks before this scheduled ALJ hearing, the Review Panel had to

⁹ As cited in the previous footnote, BCC § 32-4-281(e) limits the scope of the Board. “A county board of appeals is not intended to be [a] policy-making body; at least with respect to reviewing development plans, it is not vested with broad visitatorial power over other county agencies, but acts rather as a review board, to assure that lower agency decisions are in conformance with law and are supported by substantial evidence.” *Monkton Pres. Ass’n*, 107 Md. App. at 580. In the present case, the Board went beyond its review powers, which are solely to assure that the ALJ’s decision was supported by reasonable law and fact. *Id.* The Board reversed the ALJ’s decision by relying on uncited and unsubstantiated claims of legislative intent, and the Board did not demonstrate that the “lower agency decision[]” was not “in conformance with law” and was not “supported by substantial evidence.” *Id.*

hold a meeting and review the plan against the requisite Review Panel criteria. This review process would never have taken place but for the Resolution.

During the Review Panel process, pursuant to the Review Panel instructions, the Review Panel must apply the “appropriate” standards and community plans for designated areas, “as applicable.”¹⁰ The Design Standards at issue in this case are a potentially applicable community plan which the Review Panel would have to apply only if the contested parcel is subject to the community plan. While the instructions refer the Review Panel to the Design Standards manual, the Design Standards criteria apply only to parcels within the accompanying Design Standards map—a map which excludes the Northern Parcel from the Design Standards area. Appellants’ argument fails because the Resolution replaced the Review Panel map and did not replace the Design Standards map, as explained above. To be clear, pursuant to the Review Panel’s instructions, the Review Panel must refer to the Design Standards for residential areas in Towson. But, because the Northern Parcel is located outside of the boundary area in which the Design Standards apply, as marked on the 2003 Design Standards map, the Review Panel does not actually apply the Design Standards to the Northern Parcel. While the Review Panel must reference the Design Standards in specified situations, this does not mean, as

¹⁰ For example, as the ALJ wrote, “[b]oth BCC[] § 32-4-203(c)(i) and the CMDP also directs [sic] the [Review Panel] apply standards in [Baltimore County Zoning Regulations § 2-260 Residential Performance Standards] for residential projects. [Baltimore County Zoning Regulations] § 260.1.A does not apply here as it only applies to ‘all residential development of four or more lots in Baltimore County that is located within the urban/rural demarcation line.’”

Appellants suggest, that the Design Standards apply automatically. Here, the Design Standards do not apply to the Northern Parcel.

We conclude that the Board incorrectly found the Resolution to expand both the Design Standards and the Review Panel maps. The plain language of the Resolution replaced only the Review Panel map which subjects the Northern Parcel to the review process. We therefore affirm the circuit court's decision to reverse the Board, thereby affirming the ALJ's approval of the development plan.

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