



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 1045

Zoning – Board of Appeals Decisions or Zoning Actions – Judicial Review

Date: March 7, 2024

To: Senate Education, Energy and the
Environment Committee

Position: **Favorable**

From: Paul W. Smail
Vice President for Litigation
and General Counsel

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 1045 which clarifies and expands standing to seek judicial review of planning and zoning decisions.

Access to the courts to redress grievances is protected in the United States Constitution, Art. III, sec. 2. Over time, federal jurisprudence around what cases and controversies courts may address resulted in the minimum requirements for standing under federal law. This is articulated on page 2 of the Fiscal and Policy Note for this legislation. Maryland has adopted this standard for the purposes of judicial review of certain environmental permits in Section 1-601 of the Environment Article. However, Maryland courts apply a much more stringent standard when evaluating standing in planning and zoning cases.

Maryland law requires that a party seeking judicial review of a planning or zoning decision demonstrate that they are aggrieved by the decision on an individual basis or as a taxpayer. This standing requirement typically requires a party to demonstrate that they are adversely and specially affected by a planning or zoning decision in way that is different from that suffered by the general public. Typically, only an adjacent landowner or taxpayer who suffers a pecuniary loss will have standing to seek judicial review of a planning or zoning decision. The application of this standard in limiting judicial review of such decisions has a meaningful impact on the Chesapeake Bay and natural resources of this State.

It is not disputed that the development of land is an economic driver. It is also not disputed that as our forests and wetlands and green spaces are converted to a built environment, more polluted runoff enters our streams, rivers, and the Chesapeake Bay. Under the present law, individuals and organizations that would otherwise be able to articulate a cognizable claim of injury to their interests under federal standing law would be excluded from seeking judicial review of a planning or zoning decision. Local governments and private entities benefit economically from these decisions while the citizens and natural resources frequently absorb the social and environmental costs and consequences. The adoption of the federal approach to standing would provide improved access to justice while protecting against frivolous claims.

CBF urges the Committee's FAVORABLE report on SB 1045

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403