Environment by Fern Shen9:23 am Oct 23, 2023

Tired of stormwater lapping at their front door, Baltimore residents join an environmental lawsuit

Blue Walter Baltimore and the Chesapeake Bay Foundation say the state must do more to control runoff, much of it from Baltimore County, that inundates city neighborhoods and pollutes the Bay

Above: Severe flooding in 2018 at 35th Street and Hillen Road in northeast Baltimore. (Pamela Luallen-Williams)

Visiting with next-door neighbors Pamela Luallen-Williams and Mary Jackson is like finding the multimedia mother lode of data on urban flooding in Baltimore.

The women can produce photos and videos of their block of 35th Street, just off Hillen Road, showing how it looks when heavy rains transform the roadway into a raging river, with water surging over car door handles.

They've got years of emails with city officials, who shrugged off these events as "an act of god," and correspondence with insurance companies, who told them that because they're not in a flood zone, it wasn't "a flood."

What's more, they've got vivid descriptions of what it's like when the water rapidly rises, engulfing and damaging their parked cars, trucks and, once, the front yard fence when a floating car drifted into it.

"How about that time when Mary's son had to rescue you from your truck?" Luallen-Williams said to her husband, Warren Williams. "They had to throw you a rope!"

"Yes, I had to get out through the window, and I don't know how I fit," recalled Williams, reminding his wife of some of the other rescues, like the time emergency crews had to pluck the driver and passengers out of a submerged MTA bus.

One more thing these women say they have:

Evidence of how stormwater flooding is becoming more frequent and severe in their Ednor Gardens-Lakeside neighborhood, which sits on top of Tiffany Run, an underground stream.

"We had water in the street going back decades," said Luallen-Williams, whose family acquired the property in 1970.

"But," she stresses, "it never came up to your front door."

The view out Pamela Luallen-Williams' front door in 2018 when stormwater flooded her home in the 1700 block of East 35th Street. (Family photo)

That began to happen in 1998. Floodwaters have since crept closer to their houses to the point where now, a bad storm will not only fill the basement with water, but on occasion reach up to the first floor as well.

“This,” Luallen-Williams said, standing in her living room and pointing down, “is the new floor we had to put in.”

A freezer, a washer, a dryer, a television, her furnace, clothing and other possessions have been ruined by the overflows of water and, they are sorry to say, by sewage.

“We’ve had poop,” she said grimly, adding that people living on nearby streets, like Alameda Circle, have also begun experiencing more flooding and backups lately. “It’s definitely getting worse.”

ABOVE: Next-door neighbors Mary Jackson and Pamela Luallen-Williams are also co-plaintiffs in a lawsuit. **BELOW:** The basement of Luallen-Williams’ house after flooding from heavy rains in 2018. (Fern Shen, Luallen-Williams family photo)

Groups Sue MDE

Some relief may be on the way for Luallen-Williams and Jackson, retirees on a fixed income who got the attention of their City Council member, Odette Ramos.

Ramos says work is scheduled to begin in 2024 on a city infrastructure project that includes adding a long-overdue pipe that should channel some of the stormwater away.

But the women are also part of a push in the courts by environmental groups who say the Maryland Department of the Environment (MDE) has been failing to require jurisdictions to take effective action to prevent the flooding at its source:

The huge volume of stormwater that pours in from the uplands – run-off from impervious surfaces like streets, rooftops and parking lots, many of them located in the suburbs far from city neighborhoods like Ednor Gardens-Lakeside.

Luallen-Williams and Jackson are co-plaintiffs in one such legal action, filed in 2021 by Blue Water Baltimore and the Chesapeake Bay Foundation (CBF) to challenge the stormwater management permits issued to Baltimore city and county.

• **Low-income city residents disproportionately impacted by weak stormwater permit, environmentalists say** (9/14/22)

This Hogan-era lawsuit contends MDE is letting the jurisdictions off the hook, permitting them to take credit for less beneficial activities, such as street sweeping and stream restoration.

Meanwhile, the suit says, the state is failing to require more effective measures, such as removing impervious surfaces, planting trees and installing “green infrastructure” like bioretention basins to capture some of this runoff.

“There’s now so many ways out of these permits that nobody’s actually doing what they were created to do,” CBF senior scientist Doug Myers told *The Brew*.

Waist-High Water

Myers said the permits also fail to take into account climate change, even though “the northeastern U.S. is being projected to have more extreme rainfall events, higher intensity events occurring more frequently.”

Last month, Luallen-Williams and Jackson’s street was flooded once again by one of those intense rain events, which brought waist-high water to 35th Street.

Other neighborhoods were inundated as well that night, September 12. Stony Run backed up at a well-known bottleneck, Wyndhurst Avenue, destroying two busineses and ripping up roads.

Also hit hard was Woodberry in the Jones Falls Valley, where resident videos show water cascading down Parkdale Avenue near Druid Hill Park.

Flooding has been bad there for years, but appears to be worsening.

“We’ve been trying to get a fix because the flooding is now approaching homes,” Jessica Meyer, Woodberry Community Association president, recently told *The Brew*.

Environmental groups have been pushing to get data about increased flooding factored into the permits, “but MDE has resisted every step of the way,” says CBF’s Myers.

Flooding again on September 12, 2023 at the intersection of Hillen Road and 35th Street. (@odetteramos)

Stormwater Pollutants

In addition to its impacts on city neighborhoods like Ednor Gardens-Lakeside, CBF and Blue Water Baltimore argue, inadequately controlled stormwater is hurting water quality in Chesapeake Bay.

The permits are intended to meet legal requirements for jurisdictions to reduce the amount of harmful nutrients, sediment and other pollutants that fast-sluicing runoff sends into the Bay.

But data show pollution in area stormwater is getting worse, the environmental groups contend in their lawsuit challenging the Baltimore city and county permits.

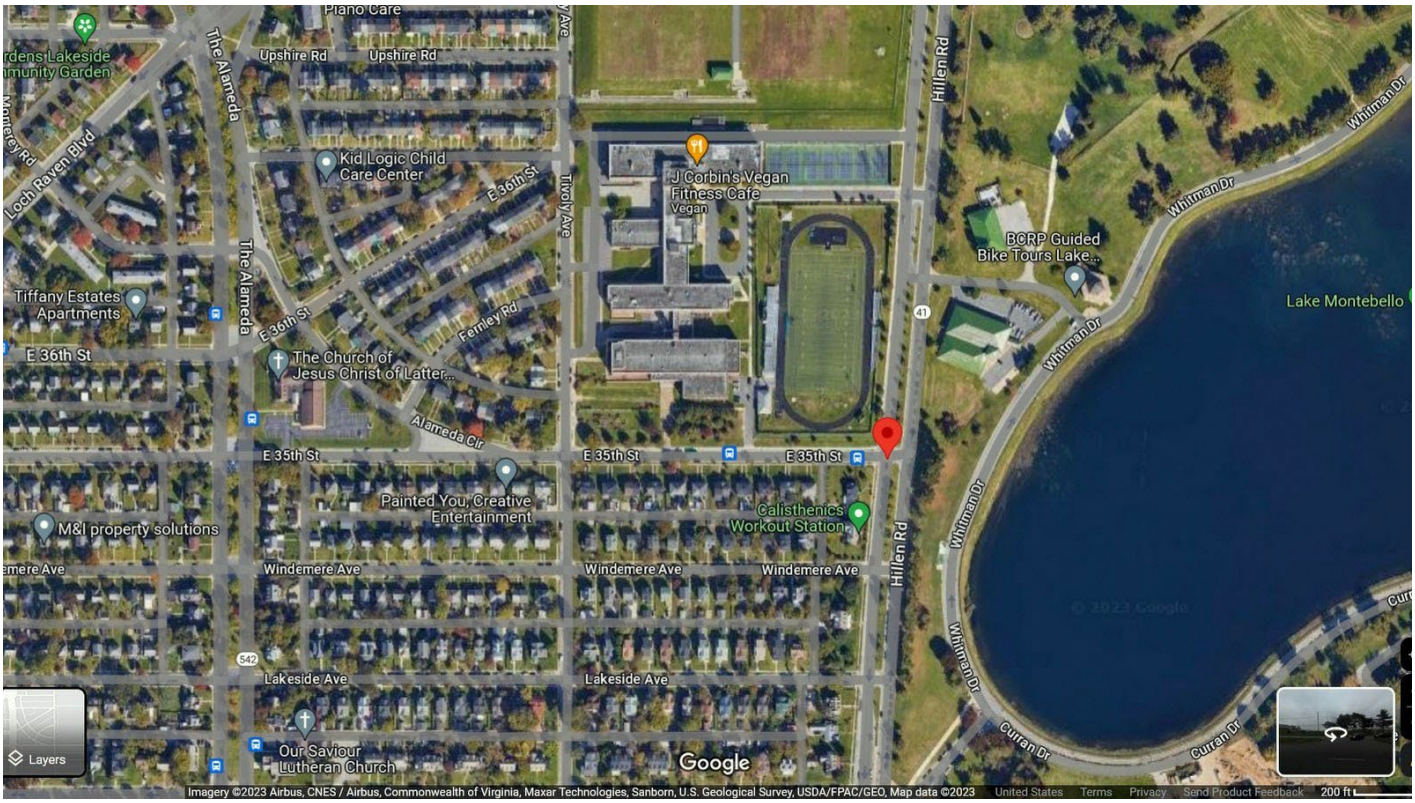
That calls into question the jurisdictions’ current practices, argued CBF attorney Taylor Lilley, in arguments before the Appellate Court of Maryland in Annapolis recently.

The lawsuit cites data collected by Blue Water Baltimore from 49 monitoring stations in the area showing that nitrogen, phosphorus and sediment loads increased by as much as 5% between 2009 and 2019.

> “There’s a definition of insanity that sounds a whole lot like that approach” to permits – Appellate Judge Douglas Nazarian.

That caught the attention of Appellate Judge Douglas R.M. Nazarian.

“Why is it a reasonable set of conditions for the new permit to do more of the same things that don’t work? Nazarian asked. “There’s a definition of insanity that sounds a whole lot like that approach.”



Chronic flooding afflicts 35th Street between Tivoly Avenue and Hillen Road (red bullet) just south of Baltimore's Merganthaler Vocational-Technical High School. (Google Maps)

MDE and City Respond

"I'm not sure that's true, Your Honor," Matthew P. Clagett, the attorney for MDE said, calling Blue Water Baltimore's data on declining water quality "simply unreliable."

Nazarian asked if Clagett was arguing that the data was wrong?

"The data shows declining trends in certain monitoring stations, but there is no causation analysis within that data to support that it's because of these" practices, Clagett replied.

Street sweeping and stream restoration "indirectly" manage stormwater quantity, he said, noting that the city and the county both plan to implement other practices, including rainwater harvesting, bioretention, micro-bioretention and tree planting.

But ultimately, Clagett said, "the permits give the city and county the flexibility to address flooding concerns as they see fit," so long as they meet federal Chesapeake Bay pollution control requirements, which he argued they do.

> "The permits give the city and county the flexibility to address flooding concerns as they see fit" – Matthew Clagett, attorney for MDE.

Disputing another of the lawsuit's allegations – that the permits ignore the impact of climate change – Clagett said they are not legally required to consider it.

"The only requirement here about managing climate change was the mandate from the General Assembly that the department study it," he said.

In conclusion, he asked the three-judge panel to uphold the permits "because they protect water quality and conform to water quality standards."

Speaking on behalf of the city, attorney Lisa Ochsenhirt defended DPW's current approach to managing stormwater.

"From a technical perspective, the city's use of street sweeping, stormdrain cleaning and stream restoration is entirely appropriate," Ochsenhirt said. "The Bay Program has an extraordinarily complex and thorough system for approving these."

> "The last thing the city wants to do is to raise the stormwater fees" – DPW attorney Lisa Ochsenhirt.

She warned about the financial burden of additional stormwater control measures "during a time of inflation that could increase the costs for basic needs like housing, gas and groceries."

"The last thing the city wants to do in this economic environment is to raise the stormwater fees that the citizens are currently paying," Ochsenhirt said.

A Heavy Toll

When it comes to the cost of severe flooding, however, the suit's co-plaintiffs say they and other residents are already paying the price.

"I couldn't even begin to add it up," Luallen-Williams said, of the thousands of dollars she has spent on household flood cleanup, floor replacement and other repairs, not to mention destroyed cars, appliances and other possessions.

Then there is the safety risk and the personal trauma.

"You almost drowned!" she exclaimed at one point, reminding her husband of his close call.

In 2003, she noted, her next-door neighbor fell through her flooded first floor after part of it collapsed from the flooding.

Why, she asks, hasn't the city used money in its capital budget – or directed state and federal environmental and infrastructure funds – to fix the well-documented problem of flooding in many parts of the city? Why hasn't Annapolis forced them to?

"You know there's a problem. We've been telling you about it for years. I'm so tired of hearing the same words, 'We're going to study it.'"

• **To reach a reporter:** *fern.shen@baltimorebrew.com*