



Date: 7 May 2020

Subject: HCCA is Against Conducting Virtual Quasi-Judicial Hearings

To: Howard County Zoning Board

The Howard County Citizens Association (HCCA) Board has voted to express our objection and concern regarding conducting virtual Zoning Board hearings whenever a case is being heard quasi-judicial. We completely understand the unprecedented restrictions because of the Coronavirus which you are trying to overcome in an effort to protect public health and welfare which do not permit public hearings at this time. However virtual quasi-judicial hearings should not be conducted.

We respectfully request that the Zoning Board suspend all hearings until the restrictions are lifted. This request is also applicable for ALL quasi-judicial cases conducted by the Planning Board, Hearing Examiner and Board of Appeals.

There are currently no provisions in the Rules of Procedure for hearings to be conducted in such fashion. HCCA believes that holding hearings via multiple video and audio feeds deprives all concerned parties of their fundamental rights of due process. How would the ability for the audience to realistically cross-examine and the displaying of exhibits be conducted under a virtual platform? We are very concerned that the audience especially those not experienced in such hearings will be overwhelmed because they are not familiar with the proceedings and policy. Whenever there are a voluminous number of audience members who want to cross-examine witnesses this could result in confusion and disorder.

Zoning Board hearings which are conducted in a quasi-judicial format are to ensure the Board and all parties are heard to get a fair hearing and to assess the veracity and credibility of the petitioners as well as the opponents. The only way members can make this assessment is to see and hear witnesses in person. Perhaps the most compelling argument against web hearings is the much greater risk that the decision could be overturned on procedural grounds by the losing party.

The County has not yet provided clear instructions to the public on how to testify, cross-examine witnesses, or provide evidence to display, etc. These concerns need to be addressed publicly before proceeding to a virtual environment, in order to preserve the goal behind the procedural rules of protecting public input and trust in the system and our due process. If these issues cannot be adequately preserved and accommodated, then we must err on the side of caution.

Sincerely,

Stu Kohn
HCCA President