



HCCA

Howard County Citizens Association

Since 1961... The Voice of the People of Howard County

Date: 21 March 2022

Subject: **CR26-2022 Testimony**

Good evening. I am Stu Kohn from Laurel, Maryland testifying on behalf of the Howard County Citizens Association as their President.

We are not here against the Board of Appeals (BoA) nominee, but to testify on a concern all of you should take seriously as you are nominating perspective Board Members. The outcome of Board Members you nominate is a reflection on you. We suggest you consider legislation to ensure all nominees on any given Board submit their resumes at least two weeks prior to the Public Legislative Hearing for appointment or renewal. This would allow sufficient time to examine any candidate for consideration. It was not the case in this Resolution. You passed CB15-2022 to include resumes but there is no time limit. Perhaps consider an amendment.

Like the Planning / Zoning Board you all realize the problems unfortunately continue or you would not have introduced and passed legislation to correct such as CB77-2021 and CB15-2022. Due process for all must be fully recognized and respected by all Board Members.

We want to tell you and the public as to the most deplorable situation whereby a lack of due process was denied by Board of Appeals and the Office of Law in a most recent case. You must watch the video and ask what we are doing to the so-called zoning proceedings.

Are our Council members willing to further discuss possible solutions? On March 1 we sent an email to you detailing the misadventures of the Board of Appeals. I want to thank my Councilperson Deb Jung for pursuing the matter. The BoA had only 4 members because a fifth has not been seated. Thus, the reason for CR26-2022. They voted 3 to 1 to remand the case back to the Planning Board. Mr. Oh, the Petitioner's attorney stated, "I beg this Board for Reconsideration." Unfortunately, the opposition could not retort because they were muted. Had they been permitted to speak they would have told the Board to please refer to their Rules of Procedure, Section 2.212 where it states:

*SECTION 2.212. REVISORY POWER OF THE BOARD. (a) Request of a Party. **Within fifteen days of the Board issuing a decision and order, a party of record may file a motion for reconsideration.** The Board may revise its decision and order if the party petitioning for reconsideration establishes mistake of fact or mistake of law. The motion for reconsideration may include a request to suspend the decision and order. (b) Process. **The motion shall be in writing.** The moving party shall mail or deliver a copy of the motion to*

each party and certify to the Board that notice to each party has been provided. Any party of record may file a written response to the motion for reconsideration within fifteen days of the filing date of a motion for reconsideration. At the discretion of the Board, oral argument may be heard on the motion. The Board shall not consider new or additional evidence unless such evidence could not reasonably have been presented at the hearing. If the Board determines to revise its decision and order, the Board shall send a copy of the revised decision and order to each party.

The BoA then changed their vote to 2 to 2 for Reconsideration, but the Office of Law, Barry Saunders was the driving force in the decision. He acted as the facilitator rather than the regulator! He says wait a minute, I need 3 votes so I can write a Decision and Order. The Board of Appeals then puts all on hold for a meeting to be conducted in a "Closed" session for the purpose of discussing what to do when there is a 2 to 2 vote. There was no basis for a "Closed" session. There is no attorney client privilege.

Why a "Closed" session? Doesn't the public have a right to know what is going on? They furthermore discussed the possibility of holding up their decision and order until they get a fifth Member.

Jean Xu who is a new BoA Member was asking rightfully so "we already voted what are we doing."

Deb Jung's office heard from the Office of Law who originally stated to give them 10 days. They then changed their mind by stating the concerned party should take it up with the BoA.

John Kennedy is quoted as saying, "There are risks and costs to action, but they are far less than the long-range risks of comfortable inaction." We ask you to please weigh-in and take the necessary action so anyone walking into a hearing can feel confident they will always receive a fair process and all entities will follow the rules. Any inaction on your part will continue to make our zoning process continue to be abysmal.

Council-member Liz Walsh has said it best in her dissent in the Erickson case. When she stated, "There was no due process neither rules applicable nor consistently enforced." We are sick and tired of going before such zoning entities only to witness the continuous charade. Will you please act? Hopefully you will take immediate action as a major priority to make a wrong a right for all your constituents. We need a dawn of a new day.

Thank you.

Stu Kohn
HCCA President