



HCCA

Howard County Citizens Association

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

Date: 17 Nov 2022

Subject: **HCCA Testimony for Reform of Zoning Process**

Good morning, my name is Stu Kohn and I am testifying on behalf of the Howard County Citizens Association, HCCA as their President.

We are hopeful that this exercise will bring some of the Due Process that has been missing in action the last four decades. Quite frankly we shouldn't even be here. The non-development community has been at a tremendous disadvantage especially whenever not represented by an attorney. We are seeking a fair and equitable system which is clearly defined.

On June 1, 2022, several of us gave such compelling testimony voicing our concerns and as a result we are here today costing taxpayers a little more than \$26,000. We do appreciate your extensive recommendations to attempt to reform the zoning process.

We are hoping that this session would become an informational sharing for all as this should not be a one-way conversation. We are not the only ones who know the current zoning process requires serious reform especially since Due Process was not a part of the Erickson case. Refer to Council-member Liz Walsh's dissenting statement which says it all. "There was no due process, neither rules applicable nor consistently enforced, throughout the interminable hours of hearings – flung in whole, then in part, to a virtual realm. There were no sufficient evidentiary bases for the findings and conclusions here stated – not as a majority originally voted upon, even less so as subsequently modified. I entirely dissent." This quote is no doubt the rationale for once and for all to demonstrate that the zoning process reform is paramount for all to trust our system.

We are looking for standardization regarding the zoning rules of procedure for all the entities – Zoning Board, Hearing Examiner, Board of Appeals, and Planning Board. There should be no excuses. We only hope that the written testimony submitted by Lisa Markovitz and Dan O'Leary will be respected and considered by you. Now let's have some conversation. Please refer to the HCCA testimony on 1 June which I handed you. We have questions which we would hope you will have the courtesy to respond.

Why don't we see the implementation of 202g as part of your recommendations?

Is it true you are recommending the Zoning Counsel participate in all cases? Does this include when you are initially hearing a case that will go to the Zoning Board?

Will any Motion filed be decided immediately?

We see the right to Subpoena has been incorporated. The problem is that the County Council unfortunately failed to pass CB55-2022 by 3 to 2 with Jones, Rigby and Yungmann voting against thus eliminating this right of Due Process. Humbug! So, the fear is that when your report is delivered to them, they will once again turn it down because apparently, they don't believe in Due Process.

Why is a Subpoena required to be filed 21 days in advance of the hearing? This doesn't make sense because in many cases during a specific case a key witness will not initially be identified during the time the case is heard.

Is there a requirement that any Reconsideration filing must be responded in writing by the Zoning Board or any of the other entities? If not, why not?

Refer to Section 103.0 Definitions – Will you consider revising that terms used in Zoning Regulations shall have the definitions found in the American Planning Association Dictionary rather than the Standard Dictionary and if not in the American Planning Dictionary would then revert to the Standard Dictionary?

We suggest there is one major word and a phrase which should be added to Section 103.0 because they are very critical in most zoning cases. They are the word “compatible” and “surrounding area.”

We would like for you to consider a section to eliminate going to Mediation. It shouldn't be allowed as it is a waste of time speaking from experience.

Please add a section to include the declaration of Sanctions being declared by all Zoning entities.

In Section 2.404 – Decision and Order please consider adding a clause which clearly states the outcome of a tie by Zoning Board Members, Planning Board, and the Board of Appeals. For example, if there are only 4 members in attendance and the vote is 2 to 2 then the decision is automatically declared “Denied.” Unfortunately, in the Lakeview case heard at the Board of Appeals the Office of Law's attorney, Barry Saunders stated he couldn't write a Decision and Order if a tie – totally not true. This caused nothing but havoc and the Planning Board suffered the consequence.

In closing we only hope that our suggestions will result in a zoning process whereby we can comfortably believe the scales of justice are finally balanced. We did not review the draft report regarding the Hearing Examiner Rules of Procedure. However, one glaring edit which needs to be incorporated is as the Zoning Board the date of approval. We see no reason as previously stated whereby all the Rules of Procedure for all the legal entities can't be standard. What say ye?

It is high time the zoning process is thoroughly revised as we need attention to detail to bring sanity to our Howard County judicial system. Hopefully such adopted revisions

will provide us with the Due Process we are all seeking. Will this become reality? We can only hope the future will be much brighter!

Thank you for your attention.

Stu Kohn
HCCA President