

Date: 25 July 2024

Subject: **Review of Board of Appeals Rules of Procedure**

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

We are hoping that after 35 years, since 1989, when the Board of Appeals (BoA) last composed the Rules of Procedure, that positive results will unfold. These Rules need to be completely adhered to obtain a consistent fair and balanced system which we all can depend upon. The best way to describe this review and the results is a quote by Eleanor Roosevelt. She said, “I can’t tell you how to succeed, but I can tell you how to fail: Try to please everybody.” You will fail if you and the Office of Law do not comply with the rules of engagement.

The following are suggestions, questions and concerns to improve the prospects of conducting hearings:

Is there any possibility the Rules of Procedure of the BoA could be formatted as the Planning Board for compatibility?

Refer to Page 1 – Include the date when the Rules of Procedure were updated and add a Table of Contents like the Planning Board’s Rules of Procedure.

Question – When reading your “About” section on the web refer to the 3rd paragraph where it states, “The Board may appoint a Hearing Examiner to conduct hearings and issue decisions, which can also be reviewed by the Board of Appeals.” What does this mean?

Refer to Page 1 –a – Chairperson – How long is the term as it is not identified while the Planning Board’s Rules of Procedure is defined. Why January (which we agree) but the Planning Board designates their offices in September. This should be compatible.

Refer to Page 1 – Voting – Where does one see in writing any member not present to certify that the member reviewed all of the submitted evidence and listened to a recording of the hearing which they were not present?

Refer to Page 1 – d, e, and f – Are these 3 positions combined? Is Kel Berg all three?

Refer to Page 1 –g – What does draftsperson mean? Is this to take minutes and where does the public find this?

Refer to Page 2 –c – What is the definition of “Substantive?”

Refer to Page 2 – Section 2.203 Notice to the Public–the advertising should include posting on the County website.

Refer to Page 3 – b – Posting of Property–add at the end of “Failure to comply shall result in the hearing to be delayed until the Petitioner has met the requirement.”

Refer to Page 3 – f–after (3) add (4) Advertise on the County Website.

Refer to Page 4 – d – Place and Time of Hearings and Meetings–why only 1 day is required to post in the George Howard Building? After the word “hearing” add “and on the County website.”

Refer to Page 4 – f – Signing up to Testify–after the word “favor” add a comma – delete “of or” and after the word “opposed” add “or neutral”

Refer to Page 5 – h –Postponement – replace the word “may” to “shall” in last sentence.

Refer to Page 5 –b – Transcription of Testimony–What is the definition of reasonable? The fee should be standard.

Refer to Page 5 –Section 2.206 – It states, ‘unless the law provides a different time period for appeal’ – Why would this occur?

Refer to Page 5 – Section 2,207 a–In the last sentence change the word “may” to “shall.”

Refer to Page 6 - e – Motions–Need to address any “Motion” filed during the particular case. In the last sentence change the word “may” to “shall.” Add after the last sentence the following: “The Board shall rule immediately on any filed motion. The Board shall not hear any appeal of motions derived from any Hearing Examiner case until the final decision rendered by the Hearing Examiner.”

Refer to Page 8- h (1)– Subpoenas–Why 21 days? What about addressing Subpoenas which could result in being filed during the case?

Refer to Page 8 – h (2) -- Subpoenas–Why 14 days? Need to account for the filing of a subpoena during the case. Define when cases should be heard De Nova.

Refer to Page 8 – Section 2.209 – Conduct of BoA Hearings; Original Jurisdiction–Define what is meant by “Original Jurisdiction.”

Refer to Page 9 –d – The Board’s Action–Refer to 2nd sentence change the word “may” to “shall.”

Refer to Page 10 Section 2.210 Conduct of Administrative Appeal Hearings – Are all appeals conducted De Nova? If so Section 2.209 can be eliminated.

Refer to Page 10 (3) – Legal memoranda – from whom does the Board receive legal memoranda?

Refer to Page 11 –Appeals on the Record (4) – change the word “may” to “shall.”

Refer to Page 12 – Section 2.211 Decision and Order (b)-- after the word “writing” –add “within 30 calendar days from the BoA decision”

Refer to Page 13 – Section 2.212 – Revisory Power of the Board (a) Request of a Party–this clause was not followed by the Board in the Lakeview case as the Office of Lawpermitted Sang Oh to immediately file orally a Motion for Reconsideration during the Case. Why?

Refer to Page 14 – Appendix A (a) Appointment; Term; Compensation–States \$1200 per year. In CB45-2024 it states \$5000 per year. Obviously, this needs to be revised.

Refer to Page 16 – Appendix B Section 16.300 Compensation–Do you think you deserve an increase in compensation based on the proposed CB45-2024 to \$27,250 in maximum cumulative total payment?

Refer to Page 16 – Section 16.303 Severability – Please explain the meaning of this section.

Arnold Palmer is quoted as saying – “Know how to win by following the rules.” If ALL were to follow the revised Board of Appeals Rules of Procedure it may lead to a win for ALL.

We appreciate this dialog and hope it will lead to a better future for ALL Concerned Parties.

Thank You,

Stu Kohn
HCCA President