



HCCA

Howard County Citizens Association

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

Date: 21 July 2025

Subject: **HCCA Testimony Regarding CB57-2025 - Board of Appeals Revised Rules of Procedure**

I am Stu Kohn from Scaggsville testifying as President on behalf of the Howard County Citizens Association, HCCA. Because of our extensive work on the Rules of Procedure and our involvement, our testimony for CB57 is much greater than the 5-minute allotment. Whenever you cut us off, please read the remainder and consider conducting a Work Session.

The HCCA is asking Council Members to incorporate a much better process for any party concerned in appealing a case. Raising the Board Members stipend as you did in July 2024 was not the answer as HCCA testified Against. We provided testimony to the Board of Appeals by composing 65 questions and suggestions for their initial revised Rules of Procedure. There are three areas we would like to highlight regarding the revision. They are the proposed Alternate Board Member which should not be considered as we don't understand the benefits. Is an Alternate Member required to listen to all cases as a means of attempting to be prepared to hear any given case? Will an Alternate Member be paid per session in attendance? The Office of Law has stated the Charter would have to be amended. See their major concerns in the Board of Appeals Memo, dated 10 April regarding the Alternate Member proposal. Secondly, there is not a section devoted to the process regarding Virtual or Hybrid mode as is described in the Zoning Board Rules of Procedure on pages 14 and 15 which HCCA noted in testimony. Thirdly, we are pleased the Board took action to have the filing of Subpoenas within a realistic timeframe whereby previously one had to file 21 days from the initial hearing. Refer to page 45, lines 22 and 23 and page 46, lines 1 thru 11.

We realize we are here to discuss the revisions of the Board of Appeals Rules of Procedure which haven't been updated in 35 years. The Chair of the Board stated they worked over 300 hours and spent 18 months working on the revision. How could so much time be devoted? Why do we have revised rules for the Planning, Hearing Examiner and Zoning Boards, which HCCA was very involved, and by the way no one ever testified from the development community? The format of these Rules of Procedure shouldn't be much different from these three entities. Why are the Board of Appeals Rules of Procedure three times the size of the Planning and Zoning Board and six times the Hearing Examiner? Yes - 65 pages compared to 23, 20 and 10 pages. Why? There should be as much standardization as possible. There is a Table of Contents associated with the Planning Board and ideally the others should have the same. Taxpayers have spent on this project approximately \$12,500 in expenditures based on each member receiving \$220 per session.

Note: $300 \text{ hours} / 24 = 12.5 \text{ days}$ and 13 months or $\$220 \text{ times } 5 = 1100 \times 12.5 \text{ days} = \$12,500 \text{ taxpayer dollars}$.

It is our observation the "Board of Appeals" should be eliminated because Members are simply not qualified. Many of your constituents who have experienced the Board of Appeals are extremely dissatisfied. The Board has no legal background, which is a major handicap and not educated in proceedings. Members are inexperienced and uneducated in the law. You saw the necessary critical requirements to approve members of the Inspector General Advisory Board. The same needs to be applied to the Board Members. Unfortunately, they are educated by on-the-job training and at times receive bad advice from the Office of Law. For example, this was true during the Lakeview case when oral "Reconsideration" was allowed during the ongoing case which is contrary to the Rules of Procedure. Yes - the Office of Law permitted this, which we testified to you. Furthermore, simply do a review over the years of the number of cases reversed. You will find it is minuscule.

Another example is the Go Kart case regarding the issuing of subpoenas. Reference page 8 under Section 2.208h1. The Chair stated on 5 June the Protestants should file a Subpoena to have the Department of Planning and Zoning explain their decision of stating the Applicant does not meet the requirements of his already constructed Go Kart facility in the existing zoning district. We asked the Board to file the Subpoena especially if they wanted to obtain all the facts. It just so happens the existing rules of 21 days to file gave no time as the next hearing is 26 June.

In the "About" section of the Board's website it states, "The Board may appoint a Hearing Examiner to conduct hearings and issue decisions, which can also be reviewed by the Board." This should be applied to save considerable time and your constituents paying exorbitant legal fees. Please refer to the proposed Rules of Procedure on page 14, lines 6 thru 13 where they also state the same. For your information, the Go Kart case has cost the proponents over \$20,000 and counting. Wow!

We suggest the following option be considered if you don't wish to abolish the Board of Appeals:

Cases should only be heard by those legally experienced which is the existing "Hearing Examiner." If you determine the Board of Appeals should not be abolished, then have the Appellant or Protestant choose if they want to go directly to the Hearing Examiner or be heard by what the Board of Appeals is proposed to be called the "Board of Grievance." The "Hearing Examiner" would be known as the "Hearing Examiner/Appeals Judge. "Any appeals would bypass the Board of Appeals and would go directly to Circuit Court as is the case because any appeal is heard in Circuit Court. Under this proposal all cases which are related to setbacks and/or variances will be heard as is today by the "Hearing Examiner." If a party does not agree with the decision of the Hearing Examiner it will go directly to Circuit Court. If you choose not to adopt this suggestion, then a recommendation is any grievances be heard first by what is currently the Board of Appeals which in the future could be known as the "Board of Grievances." An option would be to have the Petitioner choose if they want to be first heard by the "Board of Grievances" or go directly to the "Hearing Examiner/Appeals Judge."

Another suggestion is cases currently going to the Board of Appeals should not be heard "De Nova." They should only be heard from the portion of the appeal of the Hearing Examiner's decision to save clients a considerable amount of lawyer's fee and time.

Please re-examine the current process as business as usual should not continue. We appeal to you that your decision will improve the negative factors of the Board of Appeals. Let it be part of your legacy.

Stu Kohn
HCCA President