

## County Council of Howard County, Maryland

2018 Legislative Session

Legislative day # 3

#### BILL NO. 16-2018

**Introduced by:** Jennifer Terrasa and Mary Kay Sigaty **Co-sponsored by:** Calvin Ball, Greg Fox and Jon Weinstein

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

Allan H. Kittleman, County Executive

I	Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard
2	County Code is hereby amended as follows:
3	
4	By Amending:
5	
6	Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"
7	Subtitle 2. "Zoning"
8	Section 16.204. "Piecemeal map amendments and development plan approvals."
9 10	
11	HOWARD COUNTY CODE
12	HOWARD COUNTI CODE
13	Subtitle 2. Zoning
14	Subtree 2. Zoning
15	Section. 16.204 Piecemeal map amendments and development plan approvals.
16	
17	(a) Zoning Board. The Zoning Board may exercise the Zoning Authority delegated to it by this
18	subtitle to make decisions on piecemeal map amendments and development plans in
19	pursuance of a petition filed in accordance with section 16.205 of this subtitle and shall
20	establish procedures for doing so.
21	(b) Mediation. The Zoning Board may refer an applicant and other persons affected by a
22	pending application, other than piecemeal map amendment cases based on the
23	change/mistake rule as established by Maryland Case Law, to the [[mediation and Conflict
24	Resolution Center at Howard Community College]] MEDIATION AND CONFLICT
25	RESOLUTION CENTER, INC. OF HOWARD COUNTY or a conflict resolution or mediation
26	service which has been deemed acceptable by the Board. The purpose of such referral shall
27	be to resolve conflicts between these parties, but the results thereof shall not bind the Board
28	to any result. Any resolution that is agreed upon by both parties shall be subject to findings
29	of the Board required by law. Petition approval may not be granted solely on the basis of
30	mediation resolution.
31	A referral may be made either before or after a public hearing on a pending petition decision
32	but only after an application is deemed complete. Mediation shall not occur after the Zoning
33	Roard votes on a netition. The cost of the mediation service shall be incurred by the netitioner

- If no agreement is reached between the parties within 45 days, or at anytime the mediator deems
- 2 any further meetings futile, the Board shall continue with its proceedings or deliberations on
- the matter. If both parties agree, mediation may be extended past 45 days to a period of time as
- 4 agreed to by the parties.
- Nothing in this section shall preclude the parties from meeting on their own at any time, with
- or without a mediator, in an attempt to resolve their differences. It is the policy of the County
- 7 to encourage applicants and neighbors to have early discussions on proposed projects so that
- 8 differences may be resolved prior to the submission of an application.
- 9 (c) Public Hearing Required. The Zoning Board shall hold a public hearing on these piecemeal
  10 map amendments and development plan petitions at which parties in interest and citizens
  11 shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding
  12 meetings which include an opportunity for public testimony on any day on which Rosh
  13 Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning Board shall
  14 not take final action on piecemeal map amendments or development plan petitions until
  15 after the public hearing.
  - (d) *Advertising*. At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner, at its own expense, shall advertise the date, time, place and subject matter of the petition in at least two newspapers of general circulation in Howard County.
- 20 (e) Posting and Mail Notice:

16

17

18

19

21

22

23

24

25

26

27

28

29

30

- (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment or development plan petitions, the petitioner shall:
  - subject matter of the hearing. The sign shall include the address of Department of Planning and Zoning's website. The poster shall be double-sided and at least 30 inches by 36 inches in size. The poster shall include a three digit alphanumeric code, which would be used to identify the case. The alphanumeric code shall be posted by the Department of Planning and Zoning in at least five-inch lettering in the top left corner of the poster. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting. The Department of Planning and Zoning shall

supply the posters. The petitioner shall properly erect and maintain the posters; and

- (ii) Send a certified letter to all persons whose property is adjoining to the property which is the subject of the petition, according to the most recent State taxation and assessment records, notifying those persons of the date, time, place and subject matter of the hearing in accordance with subsection 16.203(c)(7) and of this subtitle.
- (2) Noncompliance with the mailing requirements of paragraph (1) of this subsection does not constitute a basis for appeal or the setting aside of piecemeal zoning or development plan decisions.
- (f) Report of the Planning Board. Petitions for piecemeal map amendments or development plan approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting on any piecemeal map amendment or development plan, the petitioner shall send notice of such meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning Board on such petitions before the Zoning Board takes final action on them.
- 18 (g) Department of Planning and Zoning's Findings and Recommendations. The Department
  19 of Planning and Zoning shall transmit its findings and recommendations concerning a
  20 petition for piecemeal map amendments or development plans IN A TECHNICAL STAFF
  21 REPORT to the Planning Board at least two weeks prior to the public meeting on a petition.
  - (h) Questioning Departmental Findings. At any time any individual may submit a question to the staff of the Department of Planning and Zoning or related agencies concerning the findings and recommendations of the Department or related agencies. If a written response is requested, the question should be submitted in writing to the Department or agency. The IF the Written Request is submitted at least 30 days prior to the Zoning Board Hearing, the Department or agency shall respond to such requests in writing prior to the Zoning Board Hearing and send a copy of the response to the Zoning Board at least two weeks prior to the Zoning Board Hearing. A response from a related agencies concerning.

1 MAY BE CONSIDERED BY THE ZONING BOARD ONLY IF THE RESPONSE IS IN WRITING, UNLESS 2 A REPRESENTATIVE OF THE AGENCY IS PRESENT AT THE HEARING TO ANSWER QUESTIONS. 3 Presentation of Departmental Findings and Recommendations. At least 30 days 4 PRIOR TO A ZONING BOARD HEARING, THE BOARD ADMINISTRATOR SHALL SEND A WRITTEN 5 NOTICE TO THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING AS TO THE DATE, 6 TIME, AND PLACE OF THE HEARING. THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND 7 ZONING, OR THE DIRECTOR'S DESIGNEE, SHALL ATTEND A ZONING BOARD PUBLIC HEARING 8 CONCERNING A PETITION FOR PIECEMEAL MAP AMENDMENT OR DEVELOPMENT PLAN TO AND, 9 10 UNDER OATH AND SUBJECT TO CROSS-EXAMINATION, SUMMARIZE THE DEPARTMENT'S FINDINGS, EXPLAIN THE DEVELOPMENT PROCESS, AND ANSWER ANY RELATED QUESTIONS. 11 12 13 [[(i) Referring Questions to Board. During a public hearing concerning a petition for piecemeal map amendments or development plans, any party may direct a question to the Zoning 14 Board and the Board shall determine if staff shall respond and the form of such response. 15 16 A response by the Department of Planning and Zoning and related agencies to a question 17 concerning its findings and recommendations may be considered by the Zoning Board only if the response is in writing.]] 18 (j) Findings. Before the Zoning Board makes a decision on any piecemeal map amendment or 19 development plan petition it shall make those findings of fact and conclusions of law 20 required by law. 21 22 (k) Documentation. (1) A petition for a piecemeal amendment of the zoning map may include documentation 23 describing the proposed development and use of the property under petition. The 24 zoning regulations and Zoning Board's rules of procedure shall govern the nature of 25 the documentation and its review. 26 (2) A piecemeal map amendment shall be based on findings required by law. A piecemeal 27 map amendment petition may not be granted solely on the basis of documentation 28

relating to proposed development and use of the property.

1	(3) If the petition for a piecemeal map amendment includes documentation describing the
2	proposed development and use of the property under petition and the petition is
3	granted:
4	(i) The property may be developed and used only in accordance with the
5	documentation, notwithstanding any provision requiring uniformity of zoning
6	requirements; and
7	(ii) Unless the comprehensive zoning plan changes the zoning district of the property,
8	subsequent adoption of a comprehensive zoning plan shall not affect the
9	requirement that the property be used in accordance with the documentation.
10	
11	
12	Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act
13	shall become effective 61 days after its enactment.
14	
15	
16	
17	
18	

#### BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on	
April 3, 2018.	
Jessica Feldmark, Administrator to the County Council	
Jossica i ordinark, redininstrator to the county council	
BY THE COUNCIL	
This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on	
Jessica Feldmark, Administrator to the County Council	
BY THE COUNCIL	
This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on	
Jessica Feldmark, Administrator to the County Council	
BY THE COUNCIL	
This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on, 2018.	
Jessica Feldmark, Administrator to the County Council	
BY THE COUNCIL	
This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on	
Jessica Feldmark, Administrator to the County Council	
BY THE COUNCIL	
This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on, 2018.	
Jessica Feldmark, Administrator to the County Council	

# Amendment to Council Bill 16-2018

BY: Jennifer Terrasa

Legislative Day No: 4
Date: 4/2/18

## Amendment No. /

1	(This amendment proposes to:
2	• clarify that the Department of Planning and Zoning (DPZ) is to transmit its findings
3	and recommendations in the form of a Technical Staff Report;
4	<ul> <li>clarify the timeliness of the written questions to DPZ and DPZ's response to the</li> </ul>
5	questions; and
6	<ul> <li>clarify that DPZ staff making its presentation of findings and recommendations is</li> </ul>
7	subject to cross-examination.)
8	
9	
10	On page 3, in line 20, after "plans", insert "IN A TECHNICAL STAFF REPORT".
11	
12	On page 3, in line 25, after the period, strike "THE" and substitute, "IF THE WRITTEN
13	REQUEST IS SUBMITTED AT LEAST 30 DAYS PRIOR TO THE ZONING BOARD HEARING, THE".
14	
15	On page 3, in lines 26 and 27, strike "PRIOR TO THE ZONING BOARD HEARING".
16	
17	On page 3, in line 27, after the second "BOARD", insert "AT LEAST TWO WEEKS PRIOR TO
18	THE ZONING BOARD HEARING".
19	
20	On page 4, in line 7, strike "TO", and immediately after "PLAN", insert "AND, UNDER
21	OATH AND SUBJECT TO CROSS-EXAMINATION,".
22	
23	
24	

ABOPTED 4/2/18
FAILED SIGNATURE PLENCE FILAMANA

Introduced	
Public hearing_	
Council action_	
Executive action_	
Effective date	

# County Council of Howard County, Maryland

2018 Legislative Session

Approved/Vetoed by the County Executive

Legislative day #

BILL NO. <u>// - 2018</u>

Introduced by: Jennifer Terrasa and Mary Kay Sigaty

NOTE: [Next in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

Jessica Feldmark, Administrator

Allan H. Kittleman, County Executive

supply the posters. The petitioner shall properly erect and maintain the posters; and

- (ii) Send a certified letter to all persons whose property is adjoining to the property which is the subject of the petition, according to the most recent State taxation and assessment records, notifying those persons of the date, time, place and subject matter of the hearing in accordance with subsection 16.203(c)(7) and of this subtitle.
- (2) Noncompliance with the mailing requirements of paragraph (1) of this subsection does not constitute a basis for appeal or the setting aside of piecemeal zoning or development plan decisions.
- (f) Report of the Planning Board. Petitions for piecemeal map amendments or development plan approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting on any piecemeal map amendment or development plan, the petitioner shall send notice of such meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning Board on such petitions before the Zoning Board takes final action on them.
- 18 (g) Department of Planning and Zoning's Findings and Recommendations. The Department
  19 of Planning and Zoning shall transmit its findings and recommendations concerning a
  20 petition for piecemeal map amendments or development plans to the Planning Board at
  21 least two weeks prior to the public meeting on a petition.
  - (h) Questioning Departmental Findings. At any time any individual may submit a question to the staff of the Department of Planning and Zoning or related agencies concerning the findings and recommendations of the Department or related agencies. If a written response is requested, the question should be submitted in writing to the Department or agency. The Department or agency shall respond to such requests in writing prior to the Zoning Board hearing and send a copy of the response to the Zoning Board. A response from a related agency to a question concerning its findings and recommendations may be considered by the Zoning Board only if the response is in writing, unless a representative of the agency is present at the hearing to answer questions.

2	(I)	Presentation of Departmental Findings and Recommendations. At least 30 days
3		PRIOR TO A ZONING BOARD HEARING, THE BOARD ADMINISTRATOR SHALL SEND A WRITTEN
1		NOTICE TO THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING AS TO THE DATE,
5		TIME, AND PLACE OF THE HEARING. THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND
6		ZONING, OR THE DIRECTOR'S DESIGNEE, SHALL ATTEND A ZONING BOARD PUBLIC HEARING
7		CONCERNING A PETITION FOR PIECEMEAL MAP AMENDMENT OR DEVELOPMENT PLAN TO
3		SUMMARIZE THE DEPARTMENT'S FINDINGS, EXPLAIN THE DEVELOPMENT PROCESS, AND
9		ANSWER ANY RELATED QUESTIONS.

10

11

12

13

25

26

27

28

29

- [[(i) Referring Questions to Board. During a public hearing concerning a petition for piecemeal map amendments or development plans, any party may direct a question to the Zoning Board and the Board shall determine if staff shall respond and the form of such response.
- A response by the Department of Planning and Zoning and related agencies to a question concerning its findings and recommendations may be considered by the Zoning Board only if the response is in writing.]
- 17 (j) Findings. Before the Zoning Board makes a decision on any piecemeal map amendment or 18 development plan petition it shall make those findings of fact and conclusions of law 19 required by law.
- 20 (k) Documentation.
- 21 (1) A petition for a piecemeal amendment of the zoning map may include documentation 22 describing the proposed development and use of the property under petition. The 23 zoning regulations and Zoning Board's rules of procedure shall govern the nature of 24 the documentation and its review.
  - (2) A piecemeal map amendment shall be based on findings required by law. A piecemeal map amendment petition may not be granted solely on the basis of documentation relating to proposed development and use of the property.
  - (3) If the petition for a piecemeal map amendment includes documentation describing the proposed development and use of the property under petition and the petition is granted:

1	(i) The property may be developed and used only in accordance with the
2	documentation, notwithstanding any provision requiring uniformity of zoning
3	requirements; and
4	(ii) Unless the comprehensive zoning plan changes the zoning district of the property,
5	subsequent adoption of a comprehensive zoning plan shall not affect the
6	requirement that the property be used in accordance with the documentation.
7	
8	
9	Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act
10	shall become effective 61 days after its enactment.
11	
12	
13	
14	
15	

### Sayers, Margery

From:Stu Kohn <stukohn@verizon.net>Sent:Tuesday, May 08, 2018 9:42 PM

**To:** CouncilMail

**Subject:** CB16-2018 -- A Suggestion to Improve Informational Sharing

Dear Council Members,

I would like to ask your consideration for a Legislative Amendment to the recently passed **CB16-2018** -- AN ACT amending the Howard County Code to modify the process for piecemeal map amendments and development plan approvals by the Zoning Board; and generally relating to Zoning Board hearings.

I believe there was an omission regarding the Public's ability to question the Director of DPZ or his designee at the Planning Board hearings. The Bill as written states the Zoning Board but omits the Planning Board. The Planning Board should also be included for citizens to question DPZ reference Page 4. After all the Developer (usually the Petitioner) has previously been working with the DPZ staff for a lengthy period of time whereas we (the Protestants) are seeing the Technical Staff Report only two weeks prior to the case being heard.

- 4. (I) PRESENTATION OF DEPARTMENTAL FINDINGS AND RECOMMENDATIONS. AT LEAST 30 DAYS
- 5. PRIOR TO A ZONING BOARD HEARING, THE BOARD ADMINISTRATOR SHALL SEND A WRITTEN
- 6. NOTICE TO THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING AS TO THE DATE,
- 7. TIME, AND PLACE OF THE HEARING. THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND
- 8. ZONING, OR THE DIRECTOR'S DESIGNER, SHALL ATTEND A ZONING BOARD PUBLIC HEARING
- 9. CONCERNING A PETITION FOR PIECEMEAL MAP AMENDMENT OR DEVELOPMENT PLAN \$0 AND,
- 10. UNDER OATH AND SUBJECT TO CROSS-EXAMINATION, SUMMARIZE THE DEPARTMENT'S 11. FINDINGS, EXPLAIN THE DEVELOPMENT PROCESS, AND ANSWER ANY RELATED QUESTIONS at the Planning/Zoning Board Hearing or Meeting.

Perhaps the above suggestion in Bold above would give further meaning to informational sharing with the Planning Board. Our questions to DPZ should not have to wait before it gets to the Zoning Board. In fact it might even save the Zoning Board if our questions are answered by DPZ at the Planning Board Level so they don't necessarily have to be a repeated when the case goes before the Zoning Board.

Sincerely,

Stu Kohn HCCA, President

# Amendment \_\_\_\_\_ to Council Bill 16-2018

BY: Jennifer Terrasa

Legislative Day No: 4
Date: 4/2/18

# Amendment No. /

1	(This amendment proposes to:
2	• clarify that the Department of Planning and Zoning (DPZ) is to transmit its findings
3	and recommendations in the form of a Technical Staff Report;
4	• clarify the timeliness of the written questions to DPZ and DPZ's response to the
5	questions; and
6	• clarify that DPZ staff making its presentation of findings and recommendations is
7	subject to cross-examination.)
8	
9	
0	On page 3, in line 20, after "plans", insert "IN A TECHNICAL STAFF REPORT".
1	
2	On page 3, in line 25, after the period, strike "THE" and substitute, "IF THE WRITTEN
3	REQUEST IS SUBMITTED AT LEAST 30 DAYS PRIOR TO THE ZONING BOARD HEARING, THE".
4	
5	On page 3, in lines 26 and 27, strike "PRIOR TO THE ZONING BOARD HEARING".
6	
7	On page 3, in line 27, after the second "BOARD", insert "AT LEAST TWO WEEKS PRIOR TO
8	THE ZONING BOARD HEARING".
9	
0	On page 4, in line 7, strike "TO", and immediately after "PLAN", insert "AND, UNDER
1	OATH AND SUBJECT TO CROSS-EXAMINATION,".
2	
.3	
4	



Date: 18 March 2018

Subject: Howard County Citizens Association, HCCA CB16 -2018 Testimony before the Council

Good evening. My name is Stu Kohn and my address is 8709 Yellow Bird Court, Laurel, MD. 20723. Tonight, I am testifying on behalf of the Howard County Citizens Association, HCCA. We are in favor of CB16 with consideration for amendments.

We want to congratulate both Councilwomen Terrasa and Sigaty for introducing these Bills and the other Council Members for your co-sponsorship. The passage of this Bill will perhaps produce a better means of communication and a more streamline approach.

The following are suggested comments:

Refer to Page 1, line 21 to 33 and Page 2; line 1 to 4 — Mediation. As you know HCCA was involved in a case for 2 ½ years known as Chapelgate before you as the Zoning Board. On two occasions you asked us to go to Mediation which we reluctantly did per your request. Our concern as we stated was the Albeth Community who we were assisting did not want to go to mediation. We stated — It was simply if the Petitioner had met the zoning criteria and in our opinion he did not! Just so you know the Mediators stated, "They had no idea as to way we were in Mediation in the first place." We ask what really is the purpose. However if you insist on having the Parties have an option to partake in Mediation then why not at the Planning Board stage. This way theoretically both Parties have an opportunity to work out their differences prior to be heard by the Zoning Board. Considering your workload this might be beneficial.

**Refer to Page 3, lines 8 to 10** — Why is it that a **Noncompliance of mailing requirements** by the Petitioner does not constitute a basis for appeal or setting aside of piecemeal zoning or development plan decision? Quite simply if the Petitioner does not comply with this requirement then they need to be penalized and therefore the case should not be heard until such time the requirement is met.

**Refer to Page 3, lines 11 to 17** – **Report of Planning Board Petitions --** what is the penalty if the Petitioner fails to comply with this requirement?

In both of the aforementioned suggestions there needs to be consequences otherwise this proposed Bill is absolutely meaningless. Enforcement is paramount for execution of a meaningful Bill.

**Refer to Page 3, lines 18 to 21** – are you referring to the Technical Staff Report. If so we suggest you state that.

**Refer to Page 3, lines 22 to 31** -- **Questioning Departmental Findings** – we like the fact that this proposed Bill affords the opportunity for individuals to ask in writing questions to DPZ. We suggest that in line 26 you add after the word "prior" at a minimum of at least two weeks prior to the hearing.

**Refer to Page 3**, **line 27** -- after the second phrase of "Zoning Board" add at least a minimum of one week before the hearing.

We ask you to please consider that whenever DPZ gives a presentation for any given case before the Planning or Zoning Board then any concerned party other than the Petitioner should be able to question

the DPZ staff member who presents the case or the DPZ Director or Deputy Director. If you adopt this suggestion then we believe Page 4 lines 2 thru 9 could be eliminated.

By the lessons learned over time we are encouraged that potentially concerned citizens will be given the latitude to be better informed. With the approval of this Bill it should bring better communication and understanding amongst all parties. This is a positive step in the right direction.

Thank You,

Stu Kohn

HCCA, President