

June 17, 2019

Re: OPPOSITION TO CB33 – Expanding standing to appeal Planning Board decisions

Dear Chairwoman Mercer Rigby and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 33. This bill makes significant changes to standing requirements in the County Code, unnecessarily expanding who can appeal Planning Board decisions far beyond what is settled in Maryland law.

Current Howard County law, which is consistent with established state precedent, requires that a person challenging a Planning Board decision be “specially aggrieved” by the decision, as well as an existing party to the proceedings before the Planning Board. Essentially, Planning Board decisions can only be challenged by people who are actually affected by the decision, and have actively participated in the public planning and approval process. This helps ensure that valuable resources aren’t spent on frivolous challenges, and keeps the process moving as efficiently as possible for the parties involved.

This measure would expand those requirements to include anyone who owns or lives on property that adjoins the project in question; anyone who owns or lives on property within sight, sound, or smell of the project in question; and any civic association, homeowner’s association, or property owner’s association “in the vicinity” of the project in question.

This expansion enables people to join the dispute who have not experienced actual harm; a property owner is not adversely affected simply because they live near a potential project, but this measure would allow them to get involved anyway. Under this new rule, a neighbor who won’t actually experience harm from the project will be allowed to protest it simply because they don’t like it – even though that project has already gone through months, if not years, of analysis, preparation, applications, involvement from experts, approvals from multiple County departments, and finally, approval from the Planning Board. This gives one unhappy but unharmed neighbor the ability to derail a process designed to ensure that any changes made to our neighborhoods are legal and in the best interests of the environment, the County and its citizens.

As a result, members of the public lose the incentive to participate in the public process at an appropriate time. An individual could choose not to attend the numerous meetings and hearings that take place prior to the Planning Board’s ultimate decision, and still file an appeal. If anyone can file an appeal, there is no incentive to spend the time to engage during the planning and approval process. The right to appeal should be reserved for parties of record that have established their opposition through the public approval process.

A property owner should have a right to protect his or her property rights. A person who has been directly harmed by a government decision should have an avenue to address that harm. We already have a system that protects both of these people. Expanding standing to this degree only enables parties who have not actually been harmed, and whose rights are not actually affected, to insert themselves into an already-lengthy process simply on principle. Doing so is inefficient and unnecessary. The MBIA respectfully requests that you vote NO to Council Bill 33-2019.

Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA’s position further, please do not hesitate to contact me at abailey@marylandbuilders.org or (202) 815-4445.

Best regards,



Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman David Yungmann
Councilman Opel Jones
Councilmember Elizabeth Walsh
Councilmember Deb Jung

County Executive Calvin Ball
Sameer Sidh, Chief of Staff to the County Executive
Valdis Lazdins, Director of Planning



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Angelica Bailey, have been duly authorized by
(name of individual)

Maryland Building Industry Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB33-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Angelica Bailey

Signature: 

Date: June 17, 2019

Organization: Maryland Building Industry Association

Organization Address: Fulton, MD 20759

Fulton, MD 20759

Number of Members: 1,000+

Name of Chair/President: Lori Graf, CEO

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Bruce A. Harvey
Testimony 06/17/19
Howard County Council
CB33-2019

My name is Bruce Harvey and I reside at 7792 Elmwood Road, Fulton, MD 20759. I have been a Howard County resident since 1978. I am also President and majority owner of Williamsburg Homes based here in Howard County. I am testifying against CB33-2019.

Who can appeal Planning Board decisions is often debated. But this CB33 opens the appeal process to a broad spectrum of residents including those that can smell the Property. That certainly seems like a loose definition. Civic Associations claim to represent citizens, but they often act with an agenda for those willing to serve; often unrelated to their own neighborhoods. This bill will lead to a greater number of appeals. Is this to benefit the legal profession or is it really creating a better process for the County? I believe we should focus on better notification of affected residents instead of adjusting the definition of who can file an appeal. For notification purposes, the fact that we still use a small sign that you can barely read as you drive by is a little antiquated. In these early stages is when affected residents need to understand and get involved. Affected residents have a responsibility to get involved and many are guilty of not doing that. With better notification standards, we can help residents better understand what new development is planned.

As a citizen and business owner in Howard County, please do not adjust the "standing" definition for Planning Board decisions and vote NO on CB33-2019.

Thank you for hearing my testimony.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Dan O'Leary, have been duly authorized by
(name of individual)

Greater Highland Crossroads Assoc. to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 33-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Dan O'Leary

Signature: _____

Date: June 17, 2019

Organization: Greater Highland Crossroads Assoc.

Organization Address: Highland MD 20777

Highland MD 20777

Number of Members: 60

Name of Chair/President: Charlotte Williams, Pres.

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Testimony on CB33-2019 by Deb Jung 6.17.19

Notebook: 2019 Shabbat Hosts

Created: 6/17/2019 4:38 PM

Updated: 6/17/2019 4:41 PM

Author: Susan Stollman

Testimony on CB33-2019 by Deb Jung 6.17.19

Good evening....my name is Joel Broida and I reside at 5400 Vantage Point Road in Columbia Town Center, a Resident of Columbia since 1970. In am here to testify about CB33-2019 in regard to the concept of "standing".

Having "standing" gives one the right to testify in the form of an "appeal" to an action that has been taken in this case by a County agency or department. The issue being challenged by CB33 is who has and even more to the point who should have that right.

I am here this evening to gain your support for CB33-2019 and to urge you to revise, upgrade, and amend the current definition used heretofore for "standing" as proposed in CB33-2019.

You might ask ^{why} ~~able~~ my interest and more to the point my experience with the old application of "standing" in this very chamber and several ~~other~~ courts in Maryland including the Maryland Court of Special Appeals in Annapolis some twelve years ago.

At that time, I, along with three other Columbia residents, one a next door neighbor and two others living some distances away. Both my condo and that of my neighbor faced an empty lot to be the site of a proposed 22 story condo building. If built, the two buildings would have been less that 100 feet apart. Under the current rules, as interpreted by the developers' attorneys and the County

Lacked
"Standing"

Office of Law, neither my neighbor or I was granted "standing" to appeal the rulings.

In closing, I want to repeat/read exactly what I just said in the paragraph above to make sure you understand why it is that I firmly believe the current rules for "standing" need to be revised.

In my view, the only way for justice for all to prevail in Howard County some changes need to be made. Right now the developers win and the voting, tax paying neighbor residents loose. That seems unfair to me. What do you think??

Thank you and good night.

Joel Broida
5400 Vantage Point Road
Apartment 413
Columbia, MD 21044



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: 17 June 2019

Subject: HCCA Testimony CB33 – The Right to Have Standing

The HCCA Board is very pleased that the issue of “standing” is now being addressed by this bill. We thank councilor Deb Jung for introducing this bill.

Having experienced being told that I don’t have “standing” and that I’m not “sufficiently aggrieved” by attorneys and having this enforced by both the “Hearing Examiner” and the “Howard County Board of Appeals” is extremely frustrating.

Not being able to address the issue at hand is wrong, very wrong! It denies my right to be heard.

On top of this it’s expensive, very expensive! This is a burden on those who seek to be heard on an issue that affects them.

What aggravates the process is when there is a dysfunctional board such as the Howard County Planning Board. In recent testimony against the proposed gas station on the corner of Snowden River Parkway and Minstrel Way over two hours of testimony from both sides was ignored! I gave 14 reasons why this project should not go ahead and documents backing up my opinion only to have the Planning Board make a decision in 20 minutes and completely ignoring my testimony and everyone else’s. I know they ignored my testimony because what I gave them would take at least 45 minutes to review.

On top of this they didn’t follow their own rules of procedure.

So the next step is the Hearing Examiner and the Board of Appeals who go with this very restrictive interpretation of standing.

Their interpretation is so restrictive that even the adjoining property didn’t have standing!

This restrictive interpretation has cost especially small businesses in Columbia hundreds of thousands of dollars in attorney fees. This is a burden that should be eliminated by you passing this Bill.

In carefully reviewing the bill we feel on Page 2 line 3 that says “or any Civic Association” should be removed and be replaced with “located in the same “Final Development Plan”.

Over the past 14 years the restrictive interpretation of standing has been used many times, it's used because attorneys know they do not often have a case so they resort to this tactic!

We urge you to pass this bill with just that one modification.

We want to Thank Councilwoman Jung for having the fortitude to make a wrong a right.

Brian England
HCCA Board of Director



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, BRIAN ENGLAND, have been duly authorized by
(name of individual)

HCCA to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 33 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: BRIAN ENGLAND

Signature: [Handwritten Signature]

Date: JUNE 17TH

Organization: HCCA

Organization Address: PO BOX 89

ELLIOTT CITY

Number of Members: 300

Name of Chair/President: STU KOHN

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.