



June 14, 2019

Deb Jung
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Dear Councilmembers:

We, the Board of Directors, Advisory Committee, and staff of the Downtown Columbia Partnership (DTCP), write regarding the recently introduced legislation CB32-2019 "An Act requiring that Department of Planning and Zoning designees appear at quasi-judicial Planning Board hearings under oath, under certain circumstances; and generally relating to the Department of Planning and Zoning," and CB33-2019 "An Act amending the Howard County Code by specifying who may appeal Planning Board decisions; and generally relating to Planning Board decisions."

Our greatest concern is with CB33-2019. First, we're concerned that you did not engage DTCP or the businesses leading the re-development of Downtown Columbia prior to introducing this legislation. The Downtown Columbia Plan, unanimously passed by the Howard County Council in 2010, provides the framework for revitalizing Downtown Columbia. CB33 opens the door for any group or individual to appeal Planning Board decisions and could result in its exploitation as a stall tactic with deleterious consequences to many stakeholders. The risks of such legislation include:

1. Wasted time and money on behalf of Howard County Government Departments and the parties involved in the delayed project;
2. Potential loss of businesses to surrounding jurisdictions;
3. Loss of CEPPA revenue for the DTCP
4. Lost commercial tax revenue at a time when the County is already experiencing budget constraints.

While CB32 does not have a direct impact on the DTCP, we feel that the legislation is onerous and unfair to Department of Planning and Zoning (DPZ) staff. First, it suggests that they are dishonest and untrustworthy and can only be trusted to tell the truth if they are sworn under oath. From a practical level, it assumes that all DPZ staff be expert on every facet of a project, which is not the case. This proposed legislation could end up requiring multiple staff members to be on hand to answer questions of a technical nature, adding over-time costs to the process.

We have no doubt that both of these pieces of legislation are well-intentioned. But if enacted, they will result in unwarranted delays; loss of revenue to the County, nonprofit, and business sectors; and unfairly and unnecessarily burden DPZ and other department staff.

We urge you to withdraw both CB32-2019 and CB33-2019 and encourage you to engage with us on issues that impact Downtown Columbia.

Respectfully,



Phillip Dodge
Executive Director



Greg Fitchitt
Board Chair

CC: Howard County Council
Howard County Executive
Downtown Columbia Partnership Board of Directors and Advisory Committee

Sayers, Margery

From: Leonardo McClarty <lmclarty@howardchamber.com>
Sent: Friday, June 14, 2019 1:30 PM
To: CouncilMail
Subject: CB33 - Standing
Attachments: CB33 - Standing.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Councilmembers:

Please find attached a letter from the Howard County Chamber stating our opposition to CB33.

Thank you for the opportunity to share our concerns.

Leonardo McClarty
Howard County Chamber



6240 Old Dobbin Lane ■ Suite 110 ■ Columbia, MD 21045

June 14, 2019

Ms. Christiana Rigby
Chair, Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: CB 33 – 2019 – AN ACT amending the Howard County Code by specifying who may appeal Planning Board decisions; and generally relating to Planning Board decisions.

Dear Councilwoman Rigby:

The Howard County Chamber believes that public participation and communication to parties potentially affected by new development is critical to a fair and equitable development process. Both commercial and residential inhabitants deserve to have the opportunity to share their affirmations and reservations on new projects. This belief is epitomized in many of Howard County development processes as we often require more public input than our neighboring jurisdictions particularly when it pertains to Downtown Columbia and Village Center development.

It is in this context that we are troubled by the aforementioned proposed legislation. Those potentially aggrieved by a proposed development currently can share their opinions and have standing to appeal decisions to the Board of Appeals and the Courts. To expand this beyond those immediately affected will adversely impact the development process underway. To add additional appeals would lengthen an already arduous process, increase the financial burden on business, undoubtedly delay and potentially deter development that is sorely needed in certain parts of the county.

Moreover, this legislation would certainly slow down Downtown Columbia Development, which would negatively impact the fulfillment of the Downtown Columbia Master Plan, a critical component of Howard County's vision for fiscal health through increased net positive tax revenues. We need fiscally net positive development and business activity to fund our schools, our public safety, and the other services our County residents rely on. We might also see an immediate impact on village center redevelopment, which already has an extremely lengthy approval process.

CB33-2019
June 14, 2019
p. 2

Business and development rely on predictability as some projects are highly volatile and the slight deviation of plan and schedule derails the entire effort. The Chamber wholeheartedly believes in the public participation process. We also believe that while everyone should have the right for their voice to be heard, as they do today, the right to appeal decisions should be limited to those directly impacted, consistent with Maryland State law.

The Howard County Chamber thanks you for the opportunity to share our concerns on the proposed legislation. We would be more than happy to meet with you or members of the Council to discuss this matter further and to work collaboratively to develop mechanisms to remedy any deficiencies you see in our planning process.

Respectfully,

A handwritten signature in black ink that reads "Leonardo McClarty". The signature is written in a cursive, flowing style.

Leonardo McClarty, CCE
President/CEO, Howard County Chamber

CC: Howard County Council
Howard County Executive
Howard County Chamber Board of Directors

Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Sunday, June 16, 2019 7:55 PM
To: CouncilMail
Subject: Testimony Signup
Attachments: CB33 MBIA Signup.pdf; CB32 MBIA Signup.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Evening,

Please find MBIA signup forms attached for the June 17, 2019 legislative session on CB32 and CB33.

Best,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Cell: 202-815-4445
Dir: 301-776-6205
Ph: 301-776-MBIA



Advocate | Educate | Network | Build

From: hcgwebsitemailbox@howardcountymd.gov [mailto:hcgwebsitemailbox@howardcountymd.gov]
Sent: Sunday, June 16, 2019 7:47 PM
To: Angelica Bailey
Subject: Testimony Signup

First Name:Angelica
Last Name:Bailey
Address 1:11825 West Market Place
Address 2:
City:Fulton
State:Maryland
Zipcode:20759
Phone:(202) 815-4445

Agenda: CB32-2019
Stance: Against

Speaking for a group?: Yes
Organization Name:
Organization Street:
Organization City:
Organization State: ---Select---
Organization Zip:
Comments:

Testimony is limited to three minutes for an individual or five minutes for the single representative of an organization. If you have prepared written testimony, please provide 7 copies when you testify.

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Stance: Against
Speaking for a group?: Yes
Organization Name:
Organization Street:
Organization City:
Organization State: ---Select---
Organization Zip:
Comments:

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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.

Sayers, Margery

From: Christopher J. Alleva <jens151@yahoo.com>
Sent: Monday, June 17, 2019 10:45 AM
To: CouncilMail
Subject: CB 33 2019 Written Testimony
Attachments: Public Support CB 33 2019 Standing to Appeal PB Dec06172019.pdf; ZRA 173 Support 08082017.pdf; ZRA 173 Standing PB Recommendation.pdf; Documentation for Howard County code error June 14, 2014.pdf

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Here are collateral documents in support of CB 33-2019

Public Support CB 33-2019
Public Support ZRA 173
Planning Board Rec. ZRA 173
Code Error Documentation

Thank you

Chris Alleva
10848 Harmel Dr
Columbia, MD 21044
443 310 1974

Please Support Howard County **BILL NO. 33 – 2019**
PUBLIC HEARING JUNE 17, 2019 7 PM
3430 Courthouse Dr.
Ellicott City, MD 21043

Introduced by: Deb Jung

AN ACT amending the Howard County Code by specifying who may appeal Planning Board decisions; and generally relating to Planning Board decisions

***This bill establishes criteria for standing to appeal.**

***There was error in the County Code that effectively barred the door to the courthouse depriving all Howard County citizens of their right to due process.**

***Please support this bill. You can submit testimony at the link below.**

<https://apps.howardcountymd.gov/otestimony/>

Bill Text:

A PERSON QUALIFIED TO APPEAL A PLANNING BOARD DECISION SHALL BE THE OWNER, LESSEE, 33 OR RESIDENT OF ANY PROPERTY THAT IS ADJOINING OR CONFRONTING THE PROPERTY THAT IS THE SUBJECT OF THE ACTION OR DECISION; OR THE OWNER, LESSEE, OR RESIDENT OF ANY 1 PROPERTY WITHIN SIGHT, SOUND, OR SMELL OF THE PROPERTY THAT IS THE SUBJECT OF THE 2 ACTION OR DECISION; OR ANY CIVIC ASSOCIATION, HOMEOWNER'S ASSOCIATION, OR PROPERTY 3 OWNER'S ASSOCIATION IN THE VICINITY OF THE PROPERTY THAT IS THE SUBJECT OF THE ACTION 4 OR DECISION.

I support CB33-2109 Date: June 11, 2019

Name: Mitch Soula

Address: 10810 Brazeburn Rd

City: COLUMBIA State and Zip MD 21044

Email: MLSoula@verizon.net Tel.: 410-531-9677

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: Benjamin Sacka

Address: 10810 Braeburn Road

City: Columbia State and Zip Md. 21044

Email: msacka@verizon.net Tel.: 410-531-9677

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: John Hollida

Address: 10824 Harmel Drive

City: Columbia State and Zip MD 21044

Email: jhollida73@gmail.com Tel.: 410.884.2912

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: *Stephanie L. Jones*

Address: *10381 Owen Brown*

City: *Columbia* State and Zip: _____

Email: *Stephanie.L.Jones@gmail.com* Tel.: _____

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: DAVID FIELDS

Address: 10385 Duem Broward RD

City: Columbia ^{MD} State and Zip 21044

Email: DAVID.M.FIELDS@VERIZON.net Tel.: _____

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: Derek Chatham

Address: 10349 Owen Brown Rd

City: Columbia State and Zip MD 21044

Email: _____ Tel.: _____

Thanks so much!!

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I support CB33-2109 Date: June 11, 2019

Name: Dan Hajdo

Address: 6016 Jamina Downs

Email: westphillydan@yahoo.com Tel.: _____
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I support CB33-2109 Date: June 11, 2019

Name: Donald S Scata Jr.

Address: 10832 Harmel Dr.

City: Columbia State and Zip: MD 21044

Email: dscatajr7@gmail.com Tel.: 443 276 7220

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I support CB33-2109 Date: June 11, 2019

Name: *James Miller*

Address: *10564 Owen Brook Rd*

City *Cokeville* State and Zip *md 27044*

Email: _____ Tel.: _____

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I support CB33-2109 Date: June 11, 2019

Name: TARIC JAWAID

Address: 9700 BOSTON ST.

City: LAUREL State and Zip MD 20723

Email: _____ Tel.: 240-328-8985

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I support CB33-2109 Date: June 11, 2019

Name: John Tefft

Address: 5015 Ten Mills Rd

City: Columbia State and Zip MD 21044

Email: / Tel.: 410-730-2771
Thanks so much!!

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Name: BRANDON TRICE

Address: 6250 Cardinal Ln.

City: Columbia State and Zip MD 21044

Email: _____ Tel.: _____

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Name: Hugh Jessell

Address: 11414 Blue Arrow Ct.

Email: h.jessell@gmail.com Tel.: 410-997-7239

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Name: Jon Nardal

Address: 12191 Willowmill Ct. EC. Md 21042

Email: annapolis1961@gmail Tel.: (410) 854-0587
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<https://apps.howardcountymd.gov/otestimony/>

Bill Text:

A PERSON QUALIFIED TO APPEAL A PLANNING BOARD DECISION SHALL BE THE OWNER, LESSEE, OR RESIDENT OF ANY PROPERTY THAT IS ADJOINING OR CONFRONTING THE PROPERTY THAT IS

THE SUBJECT OF THE ACTION OR DECISION; OR THE OWNER, LESSEE, OR RESIDENT OF ANY PROPERTY WITHIN SIGHT, SOUND, OR SMELL OF THE PROPERTY THAT IS THE SUBJECT OF THE ACTION OR DECISION; OR ANY CIVIC ASSOCIATION, HOMEOWNER'S ASSOCIATION, OR PROPERTY OWNER'S ASSOCIATION IN THE VICINITY OF THE PROPERTY THAT IS THE SUBJECT OF THE ACTION OR DECISION.

I support CB33-2109 Date: June 11, 2019

Name: Robert & Kristin DeLauney

Address: 5425 Broadwater Lane Clarksville MD

Email: de launey2001@yahoo.com Tel.: 410-531-1231
Thanks so much!!

geno8808@outlook.com

From: cjalbraith@aol.com
Sent: Thursday, July 27, 2017 1:31 PM
To: PlanningBoard
Subject: In Support FOR ZRA173

Dear Planning Board:

I am writing in SUPPORT of ZRA 173. It is critical to due process of law in citizens' rights to appeal decisions of the Planning and Zoning Board. Howard County must adhere to both the appearance and the reality of compliance with the Constitution and all applicable laws.

Thank you for your consideration.

Yours truly,

Carol Galbraith, Esq.
10118 Hyla Brook Road
Columbia, MD 21044

geno8808@outlook.com

From: The Krasnicks <krasnickfamily@aol.com>
Sent: Saturday, July 29, 2017 10:58 AM
To: PlanningBoard
Subject: ZRA 173

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions. This is a basic right that all citizens are entitled under the Constitution. It is necessary that the County be adhere to the laws.

Jerry Krasnick
6057 Shepherd Square
Columbia, Maryland 21044
443-631-5533

*Jerry Krasnick
President, Banneker Place Homeowners Association
Vice-President, Atholton High School Athletic Boosters
Treasurer, Board Member, Howard County Lacrosse Program*

geno8808@outlook.com

From: The Krasnicks <krasnickfamily@aol.com>
Sent: Saturday, July 29, 2017 10:58 AM
To: PlanningBoard
Subject: ZRA 173

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions. This is a basic right that all citizens are entitled under the Constitution. It is necessary that the County be adhere to the laws.

Clare Krasnick
6057 Shepherd Square
Columbia, Maryland 21044
443-631-5534

*Jerry Krasnick
President, Banneker Place Homeowners Association
Vice-President, Atholton High School Athletic Boosters
Treasurer, Board Member, Howard County Lacrosse Program*

geno8808@outlook.com

From: MITCHELL SAULA <mlsaula@verizon.net>
Sent: Tuesday, August 1, 2017 8:43 AM
To: PlanningBoard
Subject: ZRA 173

Hello,

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning. I feel it is very important that government on every level be compliant with the laws and rights given to us under the Constitution.

Lisa Saula
10810 Braeburn Road
Columbia, MD 21044

geno8808@outlook.com

From: jlynch14 <jlynch14@verizon.net>
Sent: Wednesday, August 2, 2017 1:23 PM
To: PlanningBoard; jlynch14
Subject: ZRA 173

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon,

I am writing in support of ZRA 173 to clarify and resolve the rights of property owners in Howard County.

I believe adopting this amendment is the appropriate action to define "Aggrieved Person". I also believe it will rightfully reinstate basic rights of the citizens.

Thank you for considering ZRA 173.

John Lynch
2121 Grant Farm Court
Marriottsville , MD 21104

Sent from my Verizon Wireless 4G LTE smartphone

geno8808@outlook.com

From: Jervis Dorton <jervisdorton@yahoo.com>
Sent: Wednesday, August 2, 2017 2:00 PM
To: PlanningBoard
Subject: ZRA 173 - Standing

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Planning Board Members

I am writing in support of ZRA 173 submitted by Chris Alleva. Approval of this amendment will correct the ambiguity that has existed too long in defining what citizens have the right to appeal a Department of Planning & Zoning decision. I urge the Planning Board to approve ZRA 173.

Respectfully

Jervis Dorton
5963 Gales Ln.
Columbia , 21045
Tel. # 410 992 5218

geno8808@outlook.com

From: Ryan Daggie <rdaggie@gmail.com>
Sent: Thursday, August 3, 2017 10:54 AM
To: PlanningBoard
Subject: ZRA 173

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

I am writing in support of ZRA 173 to resolve citizen's rights to appeal planning and zoning decisions. I feel this is extremely important for our voices to be heard and respected.

Ryan Daggie
4029 Old Columbia Pike
Ellicott City MD 21043

geno8808@outlook.com

From: jlynch14 <jlynch14@verizon.net>
Sent: Wednesday, August 2, 2017 1:23 PM
To: PlanningBoard; jlynch14
Subject: ZRA 173

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon,

I am writing in support of ZRA 173 to clarify and resolve the rights of property owners in Howard County.

I believe adopting this amendment is the appropriate action to define "Aggrieved Person". I also believe it will rightfully reinstate basic rights of the citizens.

Thank you for considering ZRA 173.

John Lynch
2121 Grant Farm Court
Marriottsville , MD 21104

Sent from my Verizon Wireless 4G LTE smartphone

geno8808@outlook.com

From: bc@thepfectpour.com
Sent: Thursday, August 3, 2017 10:51 AM
To: PlanningBoard
Subject: ZRA 173

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Board HoCoMD

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions.

I have long understood that this is a basic right that all citizens are entitled under the Constitution. It is imperative that the be faithful to the laws of the land.

thanks,

Barry Coughlin
The Perfect Pour

geno8808@outlook.com

From: Brian England <beengland2046@gmail.com>
Sent: Thursday, August 3, 2017 2:28 PM
To: PlanningBoard
Subject: ZRA 173

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions. I have long understood that this is a basic right that all citizens are entitled under the Constitution.

It is imperative that County be faithful to the laws of the land.

I have been denied standing even though my property was only a quarter of a mile from the development and in the same FDP! On top this a friend was denied standing and his property joined the proposed development!!!

This is despicable! It also cost me and a friend hundreds of thousands of dollars to fight this!

This is a burden that "small business's" should not have to bear!

Brian England, President
British American Auto Care
Columbia. Md 21044

410 952 6856

Sent from my iPad

geno8808@outlook.com

From: Avraham Azrieli <avraham@azrielibooks.com>
Sent: Monday, July 31, 2017 4:43 PM
To: PlanningBoard
Subject: In Support of ZRA 173 Petition

Dear Chair,

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions. (Specifically, in support of the Petition dated August 30, 2016 by Christopher J. Alleva).

The Petition is worthy as it is aimed at securing a basic right for all citizens, to which they are entitled under the charter. It is imperative that County be faithful to the laws of the land.

<http://cc.howardcountymd.gov/Zoning-Land-Use/ZRA-Cases-Chart>

Sincerely,
Avraham Azrieli
6459 S. Wind Cir., Columbia, MD 21044
410-531-5487

geno8808@outlook.com

From: Howard Johnson <hlj@comcast.net>
Sent: Monday, July 31, 2017 9:48 PM
To: PlanningBoard
Subject: Support of ZRA 173

Hello Board Members

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions.

I have long understood that this is a basic right that all citizens are entitled under the Code as noted per the petition. It is imperative that County be faithful to the laws of the land.

Regards

Howard Johnson

6241 Latchliff Ct

Elkridge MD21075

410 796 2271

hlj@comcast.net

geno8808@outlook.com

From: Chao Wu <superbwu@gmail.com>
Sent: Sunday, July 30, 2017 10:44 PM
To: PlanningBoard
Subject: support ZRA 173

Dear County Planning Board,

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions.

I believe residents of interest should have the same right as other involved parties in land development and community engagement.

Thanks.

Chao

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Chao Wu, *PhD*
Council Representative and Board of Director
Columbia Association
Tel: 240-481-9637, Website: <http://chaowu.org>

Note: The opinion in the email does not represent the opinion of the Board of Columbia Association unless it is clearly stated.

geno8808@outlook.com

From: Rick Levitan <Ricklevitan@verizon.net>
Sent: Thursday, July 27, 2017 1:58 PM
To: PlanningBoard
Subject: ZRA - 173 - SUPPORT

Dear Planning Board Members:

I am writing in strong support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions and most importantly have a clear definition for what constitutes "standing".

Clearly defining an aggrieved person is critically important to a fair and open process with regards to zoning and development matters. I have had personal experience on both sides of the argument – trying to develop property and having citizens oppose who I did not think should have "standing" but could appeal and voice their concerns, as well as being involved in other real estate issues where I thought someone who clearly had standing was denied his right to oppose because of fancy lawyer tricks.

The citizens of Howard County deserve to be heard fairly. If a zoning or development matter is handled correctly and a board, panel or hearing examiner are given the opportunity to take all sides into the equation, the right decision will be made.

It's only when people are kept out of the process, that judgements can be in err.

Rick Levitan
7248 Cradlerock Way
Columbia, MD 21045
Cell: 301-370-4055
www.autostreamcarcare.com

geno8808@outlook.com

From: Paul Verchinski <verchinski@yahoo.com>
Sent: Sunday, July 30, 2017 8:17 PM
To: PlanningBoard
Cc: Paul Verchinski
Subject: ZRA 173

you will be considering ZRA 173 this week. I ask that you support this ZRA which would resolve citizen rights in appealing Zoning and Planning Board decisions.. This is a basic constitutional right.

Paul Verchinski
5475 Sleeping Dog Lane
Columbia, MD 21045

410.997-3879

geno8808@outlook.com

From: NARESH KUMAR <nareshnnkumar@yahoo.com>
Sent: Thursday, July 27, 2017 3:00 PM
To: PlanningBoard
Subject: ZRA 173

My name is Naresh Kumar and I am R/O 6804 Creekwood Court,
Clarksville MD.21029.

I am writing in support of ZRA 173 to resplve citizen'sright to
appeal Planning and Zoning Decisions.

Thanks

Naresh Kumar

geno8808@outlook.com

From: Joe Duncan <wjoeduncan@yahoo.com>
Sent: Wednesday, August 2, 2017 11:25 AM
To: PlanningBoard
Subject: ZRA 173

Follow Up Flag: Follow up
Flag Status: Flagged

My name is Joe Duncan. Address is 8850 Gorman Road, Laurel, Maryland.

This is to inform you that I support ZRA 173.

It is reasonable and *proper* to correct an error in the County code. It is also proper to provide any citizen the right to appeal Planning and Zoning executive decisions if that citizen, in any way, feels wronged by the decision.

I appreciate the opportunity to provide my views on this proposed Amendment.

geno8808@outlook.com

From: JOHN SMITH <jdsmith51@verizon.net>
Sent: Wednesday, August 2, 2017 12:01 PM
To: PlanningBoard
Subject: ZRA 173

ZRA 173 before the Howard County Maryland Planning Board
August 3, 2017

Planning Board Members,

I am writing in support of ZRA 173 to resolve citizen's rights to appeal Planning and Zoning Decisions. It is a basic right granted by the United States Constitution, and the Howard County government should be faithful to the laws of the land.

In order to appeal a Planning Board or DPZ ruling, one has to be an especially aggrieved party. As it stands now, it is almost impossible for some someone to be considered an aggrieved party in Howard County. The standards currently are stringent (one who has a specific financial or property interest that is affected by the judgment or decision in a manner that is different or greater than the general public), yet extremely vague. This ZRA is intended to bring clarity to the process by defining eligibility standards.

Thank you for your consideration.

John David Smith

7425 Swan Point Way
Columbia, MD 21045
410-807-2010

geno8808@outlook.com

From: Lisa Markovitz <lmarkovitz@comcast.net>
Sent: Thursday, August 3, 2017 11:25 AM
To: PlanningBoard
Subject: The People's Voice testimony on ZRA 173 for tonight
Attachments: zra173.docx

Follow Up Flag: Follow up
Flag Status: Flagged

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Nichole M. Galvin, Esquire
Fulton, Maryland 20759
(301) 575-0317

Members of the Howard County Planning Board:

I am an attorney licensed to practice law and a resident of Howard County, Maryland and I work at a firm in the county. I am testifying as an individual and not on behalf of a client or my employer.

While attending law school, I worked as a clerk for the Howard County Board of Appeals. At that time, in 1999 and 2000, there was no hearing examiner so the Howard County Board of Appeals met two nights a week. I attended the hearings and generally assisted the board by, among other things, recording the proceedings, taking minutes and preparing transcripts for appeals.

During that three-year period, I do not recall a single case where the issue of standing was raised. I suspect the reason was that the majority of the cases were conditional use (then called special exceptions) and variances. The few cases where the board was hearing an "appeal", then called departmental appeals, were primarily appeals from zoning violations and decision by the Howard Department of Planning and Zoning (e.g. waivers).

Things have changed a lot. The Rouse Company is no more, and Columbia is in a state of transition, a fact acknowledge in General Plan, and with those change came uncertainty that needs to be addressed. I am here, as a citizen of the County, not to advocate for what the definition of "specially aggrieved" should but to argue that there needs to be a clear definition.

Let me explain. In 2012, I represented a clients in a matter before the Howard County Planning Board. I thought I was familiar enough with the process to handle the appeal but how wrong I was. Both the Hearing Examiner and the Board of Appeals challenged my clients' standing to appeal *sua sponte* (on the Board's own motion). The Hearing Examiner found there was standing. The Board of Appeals found they did not have standing. The Circuit Court found they had standing to file a petition for judicial review of the Board of Appeals' decision but then affirmed the Board of Appeals' decision that the clients' lacked standing. Finally, the case was appealed to the Court of Special Appeals. I did not handle that appeal, but the Court's decision was particularly troubling.

The Court of Special Appeals said it best in that case, *AMHA, LLC v. Howard County Board of Appeals* when it said:

"Standing is often considered to be "one of the most amorphous (concepts) in the entire domain of public law." *Flast v. Cohen*, 392 U.S. 83, 99, 88 S. Ct. 1942, 20 L. Ed. 2d 947 (1968). [More critically, the doctrine of standing has been condemned as "permeated with sophistry," "a word game played by secret rules,"].

AMHA, LLC v. Howard County Board of Appeals, 2015 Md. App. 1031, *27.

The Court addressed the question of whether it was error for the Board of Appeal to use the same standard articulated in the seminal standing case; *Byniarski v. Montgomery Cnty. Bd. of Appeals*, 247 Md. 137, 230 A.2d 289 (1967) in determining the meaning of the phrase "[a]ny person specially aggrieved" in the Zoning Regulations [HCC § 16.900 (j)(2)(iii)]. The Court held that it was not error because the Board has broad discretion to construe its own regulations, but perhaps most troubling was the Court's holding that:

“the Board of Appeals was not bound to construe the term "person specially aggrieved" in accordance with the Court of Appeals' holdings in *Bryniarski*, and *Ray*. Indeed, the Board of Appeals could have promulgated a different standard for defining special aggrievement, or the Board of Appeals could have construed its standard differently so long the construction was reasonable enough to survive our *de novo* review of its legal conclusions.

The Court noted that § 16.103(b) of the Howard County Code was not helpful in determining the meaning of “specially aggrieved” in the Howard County Zoning Regulations:

[§ 16.103(b) of the] HCC seemingly attempts to articulate a standard for special aggrievement by providing, “[f]or purposes of this section the term 'any person specially aggrieved' includes but is not limited to [a class of individuals that] meet the criteria for aggrievement set forth in subsection 16.103(b) of this title.” Unfortunately, subsection 16.103(b) offers us no guidance because its provisions are wholly unrelated to whether an individual is specially aggrieved.

In deciding whether it was error for the Board to apply the aggrievement standard from *Byrniarski*, the Court of Special Appeals ultimately decided it was not:

Accordingly, it may have been within the purpose of HCC § 16.900(j)(2)(iii) to adopt the standard set forth in *Bryniarski*. We, therefore, hold that the Board of Appeals reliance on *Bryniarski* and *Ray*, when construing the term "specially aggrieved" as it appears in HCC § 16.900(j)(2)(iii), although not necessarily required, was not error.

The Court ultimately upheld the Board’s decision in that case. The Court’s decision, however, is important in that it highlights the need for clarity—a clear definition because as it stands now, the Court has confirm that there is no set standard so it is within the Board’s discretion to construe its own rules. This creates confusion for citizens and does not provide a clear standard by which they know whether they are allowed to participate. Such an ambiguity leaves it to the whim of the particular board or hearing examiner and result in citizens spending time and money preparing a case (even hiring an attorney), who ultimately will never have their case heard—a fact they could not have known with certainty before the hearing because there is no clear definition.

In conclusion, I am here, as a citizen of the County, not to advocate for what the definition of “specially aggrieved” should be, but to appeal to you to provide clarity, which will save everyone-petitioners and protestants alike a lot of time and money. Thank you for your time.

Sincerely,



Nichole M. Galvin

From: Boone, Laura
Sent: Thursday, August 3, 2017 4:35 PM
To: Chris Alleva
Subject: FW: ZRA-173

From: Jo McLaughlin [mailto:bluebirds09@yahoo.com]
Sent: Thursday, August 03, 2017 4:24 PM
To: PlanningBoard <PlanningBoard@howardcountymd.gov>
Subject: ZRA-173

The stench from the roofing project at Centennial High School is overwhelming...and neighbors (individually and/or collectively) don't have the right to be heard?

Government is over-reaching.

Please LISTEN and evaluate well, with all good due diligence.

Thank you!

From: Boone, Laura
Sent: Thursday, August 3, 2017 4:42 PM
To: Chris Alleva
Subject: FW: ZRA 173

From: Dan O'Leary [mailto:danielol12832h@gmail.com]
Sent: Thursday, August 03, 2017 4:42 PM
To: PlanningBoard <PlanningBoard@howardcountymd.gov>
Subject: ZRA 173



August 3, 2017

Planning Board of Howard County

Dear Members of the Planning Board

Re: ZRA 173

The GHCA is in full support of ZRA 173 in its intent to to preserve the citizens' right to appeal Planning and Zoning Decisions.

All citizens are entitled by Article I of the Constitution to be heard in whatever forum, especially governmental forums.

If you are dissatisfied with some of its wording, amend it and send it post-haste to Council for passage.

Dan O'Leary
Chairman of the Board
GHCA

1 CHRISTOPHER J. ALLEVA, * BEFORE THE
2 PETITIONER * PLANNING BOARD OF
3 ZRA-173 * HOWARD COUNTY, MARYLAND

4 * * * * *

5 MOTION: *To recommend denial of ZRA-173 according to the DPZ recommendation, and to*
6 *recommend that DPZ and the County Council consider the issue of establishing*
7 *standards for aggrievement.*

8 ACTION: *Recommended denial for ZRA-173 and recommended approval that DPZ and the*
9 *County Council consider the issue of establishing standards for aggrievement.;*
10 *Vote 3 to 0.*

11 * * * * *

12 **RECOMMENDATION**

13 On August 3 ,2017, the Planning Board of Howard County, Maryland, considered the petition of
14 Christopher J. Alleva to amend Section 130.0.A. in the Howard County Zoning Regulations to define
15 eligibility standards for entities to be considered an “aggrieved person” in a Hearing Authority appeal case,
16 and also to specify that decisions of the Planning Board may be appealed to the Hearing Authority.

17 The Planning Board considered the petition, the Department of Planning and Zoning Technical Staff
18 Report and Recommendation, and reviewing agency comments. The Department of Planning and Zoning
19 recommended denial of the petition based on finding that proposed amendments conflict with the County
20 Code, which addresses appeals of Planning Board decisions.

21
22 Testimony

23 The Petitioner stated that the purpose of the amendments is to correct an error that exists in the
24 County Code regarding appeals of decisions related to zoning and land development matters. Mr. Alleva
25 reviewed a number of Board of Appeals cases that have been dismissed due to lack of standing and asserted
26 that the code needs to clearly define who can stand for appeal. Mr. Alleva requested that the Board
27 recommend approval of ZRA-173 and that the County Council correct the error in the County Code and
28 define who is aggrieved. Nichole Galvin, William Ingles, Stuart Kohn, and Jean Wilson testified in support of
29 establishing eligibility standards for aggrieved persons to provide clarity and ensure citizen’s appeal rights.

30
31 Board Discussion and Recommendation

32 In work session, the Board concurred that a Zoning Regulation Amendment is not the appropriate
33 process to correct the error in County Code. Also, a Board member suggested that the proposed definition of
34 aggrieved person is too broad.

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Motion and Vote


Mr. Coleman made the motion to recommend denial of ZRA-173 and recommended that DPZ and the County Council look at defining aggrieved person and clean up references in code so that they point to correct sections. Ms. Roberts seconded the motion. The motion passed by a vote of 3 to 0.

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 7th day of September, 2017, recommends that ZRA-173, as described above, be DENIED, and recommends that DPZ and the County Council consider the issue of establishing standards for aggrievement.

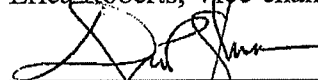
HOWARD COUNTY PLANNING BOARD

ABSENT

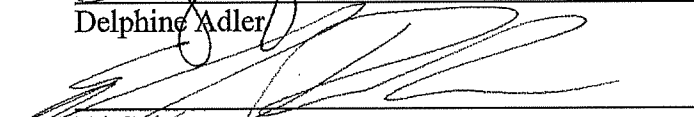
Phillips Engelke, Chair



Erica Roberts, Vice-chair

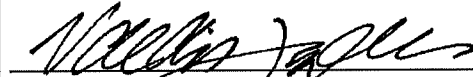


Delphine Adler



Ed Coleman

ATTEST:



Valdis Lazdins, Executive Secretary

Howard County, Maryland, Code of Ordinances >> - CODE >> TITLE 16 - PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS >> SUBTITLE 9. PLANNING BOARD >>

SUBTITLE 9. PLANNING BOARD ^[7]

Sec. 16.900. Planning Board.

Sec. 16.900. Planning Board.

- (a) *General Provisions.* General provisions applicable to this Board are set forth in subtitle 3, "Boards and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County Code.
- (b) *Number of Members.* The Planning Board shall have five members.
- (c) *Qualifications.* All members of the Planning Board shall be residents of Howard County.
- (d) *Executive Secretary.* The Director of Planning and Zoning or the Director's designee shall serve as Executive Secretary of the Planning Board and shall attend all meetings of the Board.
- (e) *Meetings.* The Planning Board shall hold regular monthly meetings. Special meetings may be held at any time, at the call of the Chair.
- (f) *Records.* The Planning Board shall keep a record of its findings, recommendations, determinations and decisions. The Planning Board shall keep minutes of its proceedings. The records shall be filed with the Department of Planning and Zoning, which shall maintain them.
- (g) *Outside Assistance.* With the approval of the County Executive, the Planning Board may retain legal counsel or consultants as necessary to carry out its function and duties and responsibilities.
- (h) *Studies.* The Planning Board may initiate studies related to the general duties and responsibilities and functions of the Board. For the purpose of conducting such studies, the Board shall have the assistance of the staff of the Department of Planning and Zoning, as may be provided in the budget.
- (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general plan, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the general plan. In addition, prior to making recommendations to the County Council on adoption of comprehensive zoning, the Planning Board shall hold at least one public hearing at which interested persons shall be afforded a reasonable opportunity to be heard regarding the comprehensive zoning. In both cases, at least 30 days' notice of the time and place of the hearing shall be on the County's website. The Planning Board may hold hearings on any matter pending before it and shall hold hearings upon written request of the County Executive or on resolution of the County Council and as required by law and regulations.
- (j) *Duties and Responsibilities.* The Planning Board shall carry out all duties and responsibilities assigned to it by law.

- (1) *Recommendations on Planning and Zoning:*
 - (i) *Recommendations.* The Planning Board shall make recommendations to the County Council and the Zoning Board on all matters relating to:

The Planning and Zoning of the County, the adoption and amendment of regulations regarding the Planning and Zoning of the County, and amendments to the zoning map or zoning regulations.
 - (ii) *Time frame.* The Planning Board shall make its recommendations within a reasonable period of time, but in any event no more than 45 days after it hears the petition unless the Zoning Board or the County Council allow a longer period of time for the Planning Board to make its recommendations.
- (2) *Decision making:*
 - (i) The Planning Board shall make decisions with respect to matters submitted to it pursuant to the laws, rules, regulations, and ordinances of the County.
 - (ii) The Planning Board has authority regarding street naming and house numbering pursuant to subtitle 4, "Street Names and House Numbers" of [this] title 16 of the Howard County Code.
 - (iii) Any person specially aggrieved by any decision of the Planning Board and a party to the proceedings before it may, within 30 days thereof, appeal said decision to the Board of Appeals in accordance with section 501 of the Howard County Charter. For purposes of this section the term "any person specially aggrieved" includes but is not limited to a duly constituted civic, improvement, or community association provided that such association or its members meet the criteria for grievement set forth in subsection 16.013(b) of this title.
- (3) *Recommendations on capital programs and capital budgets:*
 - (i) *Recommendations.* Each year the Planning Board shall review the proposed capital program and any new or substantially changed capital project, pursuant to law. It shall prepare comments and recommendations on the impact of the proposed capital program on the County general plan and the growth of the County and submit these comments and recommendations to the County Executive, with a copy to the County Council.
 - (ii) *Time frame.* The proposed capital programs for the following fiscal year shall be submitted to the Planning Board at least two months before the County Executive is required to file the County's proposed capital program. The Planning Board shall submit its comments and recommendations within one month of receiving the proposed programs.
- (4) *General plan guidelines:*
 - (i) *Preparation of guidelines.* Within five years from the adoption of this comprehensive rezoning plan, the Planning Board shall prepare general guidelines to be used by the Department of Planning and Zoning in the preparation and/or revision of the general plan.
 - (ii) *Adoption of guidelines.* The County Council shall adopt the guidelines by resolution prior to the formulation of the general plan utilizing these guidelines.
- (5) *Other recommendations.* At the directive of the County Executive or by resolution of the County Council, the Planning Board shall review and make recommendations on any matter related to planning.

Subject: Code error
From: Christopher J. Alleva (jens151@yahoo.com)
To: earl.adams@dlapiper.com;
Date: Wednesday, June 11, 2014 5:03 PM

More info on the Code error

On Tuesday, June 10, 2014 2:40 PM, "Tolliver, Sheila" <STolliver@howardcountymd.gov> wrote:

Chris (aka Music Man),

We've traced the problem and have referred it to the Office of Law. Not sure if they can correct this through the Code company without legislation, given the history. If not, we'll put in a bill to correct. Thanks for your attentive eye.

Sheila

From: Tolliver, Sheila
Sent: Tuesday, June 10, 2014 2:35 PM
To: Vannoy, James
Cc: Nolan, Margaret Ann; Meyers, Jeff
Subject: Code error

Jim,

A constituent found an error in a reference in the Code. I'm bringing it to your attention, as the Office of Law works with the code company on such matters. If you'd rather we just correct legislatively, let me know.

The problem is the reference to "subsection 16.013(b)" in subsection 16.900 J(2)(iii). Jeff has researched the history and found the following series of actions:

- Subsection 16.900 J(2)(iii) was adopted in CB 13-1990; however, the reference at that time was to "subsection 16.103(b)".
- Apparently at some point, perhaps by a typo, 16.103 was changed to 16.013, which doesn't exist.
- CB 121-1992 repealed and reenacted subsection 16.100 as part of a larger bill. The newly adopted subsection 16.103 (b) does not deal with the subject matter referenced in the

contemporary subsection 16.900 J(2)(iii). The cross-reference in 16.900 was not changed as part of that bill.

- A word search in the current code fails to find any criteria elsewhere in the code for what constitutes an association eligible to be an aggrieved party. We think, therefore, that the entire sentence in subsection 16.900 that erroneously references the non-existent subsection 16.013 (b) should be stricken.

Please let us know how best to remedy.

Sheila Tolliver
Administrator
Howard County Council
410 313-2001

Howard County, Maryland, Code of Ordinances >> - SUPPLEMENT HISTORY TABLE >> - HOWARD COUNTY CHARTER >> ARTICLE V. BOARD OF APPEALS >>

ARTICLE V. BOARD OF APPEALS ^[3]

Section 501. The County Board of Appeals.

Section 502. Board of Appeals hearing examiner.

Section 501. The County Board of Appeals.

- (a) *Appointment; term; compensation.* The County Board of Appeals shall consist of five registered voters and residents of the County appointed by the Council. Appointees shall serve overlapping terms of five years from the first day of January of the year of their appointments, or until their successors are appointed. Vacancies, except those at the expiration of a term, shall be filled in the same manner as the original appointment and for the unexpired term. No member shall be reappointed after having served eight consecutive years immediately prior to reappointment. No more than three members shall be registered with the same political party. The members of the Board shall be paid at the rate of Twelve Hundred Dollars (\$1,200.00) per year unless such compensation be changed as provided in Section 501(f) of this article. Members of the Board shall receive reasonable and necessary expenses as may be provided in the budget.
- (b) *Powers and functions.* The Board of Appeals may exercise the functions and powers relating to the hearing and deciding, either originally or on appeal or review, of such matters as are or may be set forth in Article 25A, Section 5(u) of the Annotated Code of Maryland, excluding those matters affecting the adopting of or change in the general plan, zoning map, rules, regulations or ordinances.
- (c) *Rules of practice and procedure.* The Board of Appeals shall have authority to adopt and amend rules of practice governing its proceedings which shall have the force and effect of law when approved by legislative act of the Council. Such rules of practice and procedures shall not be inconsistent with the Administrative Procedure Act of the Annotated Code of Maryland. The rules may relate to filing fees, meetings and hearings of the Board, the manner in which its Chairperson shall be selected and the terms which he shall serve as Chairperson and other pertinent matters deemed appropriate and necessary for the Board. Three members of the Board shall constitute a quorum of the Board, and its hearings shall receive public notice as required by law. All hearings held by the Board shall be open to the public, and provision shall be made for all interested citizens and citizens groups to be heard. The Board shall cause to be maintained complete public records of its proceedings, with a suitable index.
- (d) *Appeals from decisions of the Board.* Within thirty days after any decision of the Board of Appeals is entered, any person, officer, department, board or bureau of the County, jointly or severally aggrieved by any such decision, may appeal to the Circuit Court for Howard County, in accordance with the Maryland Rules of Procedure. The Board of Appeals shall be a party to all appeals and shall be represented at any such hearing by the Office of Law.

- (e) *Employees of the Board.* The Board may appoint, within budgetary limitations, such employees, and the Executive shall make available to the Board such services and facilities of the County, as are necessary or appropriate for the proper performance of its duties.
- (f) *Implementing legislation.* The powers and functions of the Board of Appeals as herein provided for shall be defined by implementing legislation heretofore or hereafter enacted by the Council, subject to and to the extent required by applicable State law. The Council may by legislative act increase the compensation of the members of the Board of Appeals as provided in Section 501(a) of this Article and thereafter decrease such compensation; provided, however, that no reduction shall affect the compensation of a member of the Board of Appeals during his or her current term, and in no event shall the council have the power to decrease the compensation of members of the Board below the figure provided in this Charter. To the extent permitted by State law, the Council shall also have the power, by legislative act, to prescribe other appeals to be heard by, or to limit the jurisdiction of, the Board of Appeals in addition to those specified in this Article.

Editor's note—

An amendment to § 501 proposed by C.B. 89, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 124, 1982, was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment to subsections (c) and (f) proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. An amendment to subsection (c) proposed by Res. No. 103, 2000 was approved at an election held November 7, 2000, and became effective December 7, 2000. An amendment to § 501(b) proposed by Res. No. 100, 2012 was approved at an election held on Nov. 6, 2012, and became effective on Dec. 6, 2012.

Section 502. Board of Appeals hearing examiner.

The County Council may appoint hearing examiners to conduct hearings and make decisions concerning matters within the jurisdiction of the Board of Appeals. Decisions of an examiner may be appealed to the Board of Appeals as provided by law. The Council shall establish by legislative act the duties, powers, authority and jurisdiction of any examiner appointed under this section. An examiner shall be a member in good standing of the Bar of the Maryland Court of Appeals and at the time of appointment shall have knowledge of administrative and zoning law, practice, and procedure. An examiner may be removed from office by vote of two-thirds of the members of the Council.

Editor's note—

An amendment repealing § 502, proposed by C.B. 66, 1980, was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980.

Subsequently, an amendment proposed by Res. No. 103, 2000, approved at election November 7, 2000 and effective December 7, 2000, added a new § 502 as set out herein.

FOOTNOTE(S):

— (3) —

Editor's note— An amendment to art. V proposed by Res. No. 116, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996. ([Back](#))

Sayers, Margery

From: Jeff Neamatollahi <romasjeff@gmail.com>
Sent: Monday, June 17, 2019 10:37 AM
To: CouncilMail
Subject: Support CB 33 2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

My name is Jeff Neamatolla

I live at 3004 Patuxent Overlook
Ellicott city

I support The standing bill.

Thank you

Sayers, Margery

From: Rigby, Christiana
Sent: Monday, June 17, 2019 10:17 AM
To: Sayers, Margery
Subject: FW: CB 33-2019

From: Paul Revelle <paul.revelle@gmail.com>
Sent: Saturday, June 15, 2019 7:54 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>
Subject: CB 33-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear members of the County Council,

I am concerned about the use of the term vicinity in this legislation. It seems fair and clearly worded that confronting or adjoining property residents, owners and lessees would have a right to appeal. The sight, smell and sound test isn't as clearly worded as adjoining or confronting but still seems fair. But awarding the same right of appeal to civic associations within the vicinity is neither clearly worded nor fair.

Why not stop at the sight, smell and sound test? These owners, residents and tenants would seem to have the most valid basis for appeal. I favor the least restrictive or invasive legislative solution to a problem, if one is required. Deciding on what vicinity is (necessarily arbitrary since there is no physical basis) invites more problems and frustration for all involved.

Paul Revelle

Sayers, Margery

From: Walsh, Elizabeth
Sent: Monday, June 17, 2019 12:41 PM
To: Sayers, Margery
Cc: Thompson, Sjori
Subject: FW: CB 33-2019

Morning,

Just wanted to forward this testimony as it was sent to individual council members versus council mail (cc)



Karina Fisher
Special Assistant to Council Member Liz Walsh
Serving District 1

George Howard Building
3430 Court House Drive
Ellicott City, MD 21043
410.313.2001

kfisher@howardcountymd.gov

[Web](#) | [Facebook](#) | [Twitter](#)

From: Paul Revelle <paul.revelle@gmail.com>
Sent: Saturday, June 15, 2019 7:54 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>
Subject: CB 33-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear members of the County Council,

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on what vicinity is (necessarily arbitrary since there is no physical basis) invites more problems and frustration for all involved.

Paul Revelle

Sayers, Margery

From: Dan O'Leary <danielol12832h@gmail.com>
Sent: Monday, June 17, 2019 3:05 PM
To: CouncilMail
Subject: Affidavits from GHCA, CGB 32 & 33-2019
Attachments: Group_Affidavit CB 33-2019 B.pdf; Group_Affidavit CB 32-2019.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Please see attached

Thanks,
Dan O'Leary



**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.

Sayers, Margery

From: Christopher J. Alleva <jens151@yahoo.com>
Sent: Monday, June 17, 2019 3:14 PM
To: CouncilMail
Subject: Baltimore Sun Editorial 2011
Attachments: Howard County Legal Standing 2011 Balt Sun.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Here is an Baltimore Sun Editorial from 2011 Advocating fixing the code.

Please put this in the CB 33-2019 record.

Thanks,

Chris Alleva

Court decision leaves core question unresolved

AUGUST 25, 2011

For all intents and purposes, the story of the Plaza Residences was finished a long time ago, but the state's highest court has written a disappointing epilogue.

The Plaza was to be a 22-story condo building in Columbia's Town Center. Supporters of the project hailed its potential for energizing the local economy and broadening the county's tax base. Opponents argued it would overwhelm roads, schools and the sewers and would constitute a lakefront eyesore.

The economic nosedive of three years ago and the troubles of the developer, WCI Communities, effectively ended the debate. WCI scrapped the project and put the land up for sale. Meanwhile, the County Council passed comprehensive legislation governing the redevelopment of Town Center, including a provision capping the height of buildings at nine stories. That provision would apply to any future development on the erstwhile Plaza site.

The [Court of Appeals' Aug. 19 decision](#) won't make any difference to the skyline now, but it leaves unresolved the question of whether the plaintiffs in the case — or in similar cases in the future — actually have the right to take such matters to court.

When the county approved the project, four Columbia residents who opposed it took it to the Board of Appeals, the Court of Special Appeals and finally the Court of Appeals, Maryland's highest court. Its decision last week faulted the Board of Appeals for not ruling definitively on the question of whether each of the four plaintiffs — including one who lives next door to the Plaza site — could be adversely affected by the project and therefore had the legal "standing" required to sue, and sent the matter back to the board for it to resolve.

The project as conceived, however, is no longer possible, so the board isn't likely to consider the case again. So we continue to wait for someone — the legislature, the courts — to resolve this fundamental question.

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Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Monday, June 17, 2019 3:29 PM
To: Rigby, Christiana; Facchine, Felix; Walsh, Elizabeth; Dvorak, Nicole; Jung, Deb; Williams, China; Jones, Opel; Harris, Michael; Yungmann, David; Knight, Karen; Ball, Calvin; Sidh, Sameer; Lazdins, Valdis; Wimberly, Theo; Feldmark, Jessica
Cc: CouncilMail
Subject: MBIA Testimony for CB32, 33
Attachments: MBIA Opposition Letter to CB32.pdf; MBIA Opposition Letter to CB33.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Afternoon,

Please find MBIA's written testimony attached for this evening's hearings on CB32-2019 and CB33-2019.

Thank you,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Dir: 301-776-6205
Cell: 202-815-4445
Ph: 301-776-MBIA

 MARYLAND
BUILDING
INDUSTRY
ASSOCIATION
Advocate | Educate | Network | Build

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

Sayers, Margery

From: AMRAN PASHA <amranpasha@aol.com>
Sent: Monday, June 17, 2019 3:59 PM
To: CouncilMail
Subject: Council Bill 33-2019/Legal Standing to Appeal Planning Actions to County Appeals Board

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

My name is Amran Pasha, I live at 14456 Triadelphia Mill Road, Dayton MD 21036. I have been a resident of Howard for 18 years. I invest and operate businesses and I have had investments in commercial real estate in Howard County, notably, the Atholton Shopping Center in Columbia.

Several years ago, I appealed my dismissal for lack of standing to the Special Appeals Court of Maryland. As you know, there is an error in the code. In my case the Court called it a "legislative mystery," Nevertheless, the Court ruled that the Board of Appeals could make up there own standard so long as it was reasonable and the dismissal of my appeal was upheld.

This bill isn't about the citizens vs. business, this bill address a real need to establish a clear criteria that every citizen, property and business can rely.

Therefore, I support CB 33-2019



Sayers, Margery

From: D Boulton <ddboulton@verizon.net>
Sent: Monday, June 17, 2019 3:50 PM
To: CouncilMail
Subject: CB 33-20-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I support CB 33-2019 as introduced by Councilperson Deb Jung. The ability of citizens to offer an advisory role in decisions made by government entities is fundamental to our democracy. Please get behind Deb's bill.

Dick Boulton
4669 Hallowed Stream
Ellicott City MD 21042
410-884-2964
ddboulton@verizon.net

Sayers, Margery

From: Rigby, Christiana
Sent: Monday, June 17, 2019 5:41 PM
To: Sayers, Margery
Subject: FW: Tonight's Testimony on CB 33-2019
Attachments: CB 33-2019 by Deb Jung.docx

From: Lloyd Knowles <elizlloyd@comcast.net>
Sent: Monday, June 17, 2019 2:54 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>
Subject: Tonight's Testimony on CB 33-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

LLOYD G. KNOWLES
5561 SUFFIELD COURT
COLUMBIA, MD 21044
410-302-8841

June 17, 2019

To: Chair and Members of the Howard County Council
Re: CB 33-2019

I support the adoption of CB 33-2019 as introduced by Councilperson Deb Jung.

The Constitution of the United States provides that the right to petition our government shall not be abridged. That is the basic democratic principle supporting my testimony. In fact, with this letter to you I am doing just that. And you accept my testimony and treat it for what it is worth without requiring any qualifying test. I thank you for this opportunity to share my opinion and regret that an unforeseen family issue prevents my attendance at tonight's public hearing.

It is beyond my comprehension why the rules of procedure of a lower-ranking body in the county structural hierarchy (the Planning Board) should be allowed to require a much stricter test to petition grievances—i. e., "Standing."

For the betterment of our society the rules should be changed and will be changed with the adoption of CB 33-2019.

Sincerely,

Lloyd Knowles

Sayers, Margery

From: Paul Verchinski <verchinski@yahoo.com>
Sent: Tuesday, June 18, 2019 9:35 PM
To: CouncilMail
Subject: CB33-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Paul Verchinski
5475 Sleeping Dog Lane
Columbia, MD 21045

I support this bill since it defines who has standing before the Planning Board. This has been a major headache for yours and deprives citizens of their voice on developments that will potentially impact them

Please vote in favor of this bill

Best,
Paul Verchinski

Sayers, Margery

From: Susan Garber <buzysusan23@yahoo.com>
Sent: Monday, June 17, 2019 6:20 PM
To: CouncilMail
Subject: 32,33, 99,100

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear County Council Members,

Although I am presently out of town, I wanted to briefly weigh in on some of the important legislation you are hearing tonight.

CB32-2019 Supporting DPZ representatives to be subject to examination under oath

While the Planning Board was established as the means for the public to express opinions on important development and zoning matters, it no longer seems to perform that function. Nor does it reliably provide good guidance to the Council since it frequently ignores much of the public's testimony and simply accepts the Technical Staff Report from the DPZ representative. This is particularly the case on quasi-judicial hearings. Far too often it appears that technical staff reports have been copy and pasted whole cloth from a developer's application and protestants have no opportunity to question the DPZ representative.

There is a desperate need for citizens to be able to question the department of Planning and Zoning representative for clarification on the facts of the case and on DPZ's position. These responses should be provided under oath, just as citizens are required to provide their testimony under oath. I strongly recommend passage of CB 32 for that reason.

One amendment I would suggest is to also have the petitioner's attorney testify under oath. While in theory the attorney is to ask questions only during a quasi-judicial hearing, the reality is that much testimony is provided under the guise of loaded and leading questions.

Since DPZ representatives testify under oath now in Zoning Board cases, there is no reason not to extend this to Planning Board hearings as well

CB33-2019 Supporting broadening of 'standing' status.

The denial of standing in Planning Board Appeals is an all too frequent occurrence. It appears that the practice has weaponized the prevention of citizen participation.

Anyone who provides testimony or interrogates the petitioner and his witnesses in a Planning Board hearing should be considered a party to the case. The provision to prove that one is aggrieved more than anyone else is aggrieved is as impossible as any case of attempting to prove a negative. This practice must be corrected. I urge all Council Members to support CB 33.

CR 100 - 2019 Against further restrictions on citizen testimony.

I strongly urge you to vote against CR 100 - 2019 as written. I am concerned that the change may make it impossible for a person to speak under several scenarios:

- a.) there was a problem with the sign up process and the individual has no way of knowing it until they have been 'skipped'
- b.) persons who have multiple obligations may elect not to, or be unable to, arrive at the start of a meeting in which their issue is anticipated to occur in the latter portion of a session. If they sign up on line prior to a session and miss when they are called, they would forfeit the ability to speak despite having made quite an effort to be there
- c.) Cutting off registration at the *scheduled* start of a meeting eliminates the opportunity for a person not intending to speak on a particular topic to hear inaccurate information provided in testimony they feel compelled to rebut or correct.

While I understand it is helpful to have a fairly accurate count before the start of a meeting, there are circumstances where having to sign up prior to the *scheduled* start of a meeting would severely suppress citizen input. Just as the Council has circumstances where meetings don't start as scheduled, so too is the life of citizens not always predictable. Vote NO on CR-100 please.

CR 99-2019

I hate to see you in a position where you are told you have no alternative to accepting the chart as written, without delay or modification, as has happened year after year.

There is a significant difference this year, The new enrollment chart appears to indicate for the first time that the total number of students forecasted has now reached the point where we no longer have 'under capacity school capacity' to deal with additional students. In other words while we have heard

for years that redistricting would produce a seat for every child since we have vacancies in the West and in other isolated schools, **this is no longer the case.**

Please dare to challenge “how we’ve always done it” and produce better outcomes for students, families, and tax payers.

Thank you for your consideration of this input. I hope to be able to address additional bills and resolutions before you vote.

Respectfully submitted,

Susan Garber

North Laurel/Savage

