



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 1:27 PM
To: CouncilMail
Subject: CB32 - DPZ Oath Testimony
Attachments: CB32 - DPZ Oath Testimony.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 CB32.

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 Courthouse Square
Ellicott City, MD 21043

RE: CB 32 – 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.

Dear Councilwoman Rigby:

Development over the last several years have many in Howard County questioning various land use policies and related decisions by elected and appointed officials. There is mutual agreement in the fact that unbridled development bears impact on our infrastructure and public facilities. While there are varied opinions on the pace of development in Howard County, it is hard to disagree that there are processes and procedures in place for approving what development takes place and where it is located. This process is often led or facilitated by the Department of Planning & Zoning (DPZ).

Most recently, legislation was introduced that if passed would require DPZ designees that appear at public hearings to testify under oath. Some will argue that this enhances our public input process thereby creating greater accountability. This is true to some extent. However, we at the Chamber are concerned at what this does to the overall planning process and the message it sends regarding the approval process. DPZ is often the convener of various reports from numerous Howard County departments. DPZ often takes these reports and recommendations into consideration when authoring an opinion but they are not bound to them. Although DPZ is able understand and articulate the reasoning of some of these departmental analyses, they are not the creator of these findings and are not experts in the related fields.

It is possible this change could require multiple staff from various County agencies to be available to address technical questions which might have departmental and overall budgetary implications. This may also create further confusion for what is already a challenging process for a novice to understand.

CB32-2019

June 14, 2019

p. 2

Many in the public domain would wonder why DPZ could not just address that which is in the staff report and topics directly related to the review standards in the development regulations. When said and done, this adds more time to an already lengthy process.

Lastly, we are concerned that this legislation sends a message that staff reports are not trusted or that proper due diligence was not completed prior to the Planning Board hearing. It is also our understanding that if the proposed legislation passes, the County Solicitor's Office is unable to represent DPZ staff at Planning Board hearings thereby leaving DPZ staff to sworn testimony and unchecked cross-examination without any legal representation. Furthermore, as the Council is aware, the Director of DPZ, or his designee, serves as the Executive Secretary to the Planning Board and is required to attend every public meeting and hearing in such capacity. To require the Director to provide all testimony before the Planning Board under oath would change his role from that of a public officer in service to the Planning Board to that of a fact witness subject to cross-examination and impeachment. This would represent a fundamental shift in the traditional role of the Director before the Planning Board.

For the reasons outline above, the Howard County Chamber opposes CB 32 and requests an unfavorable vote on this 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,



Leonardo McClarty, CCE
President/CEO, Howard County Chamber

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

Sayers, Margery

From: Leonardo McClarty <lmclarty@howardchamber.com>
Sent: Friday, June 14, 2019 1:31 PM
To: CouncilMail
Subject: Resubmittal - CB32 - DPZ Oath Testimony
Attachments: CB32 - DPZ Oath Testimony.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 revised letter pertaining to CB32.

Thanks

Leonardo McClarty



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

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Respectfully,



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



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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.

Agenda: CB33-2019
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.



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

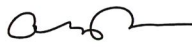
I, Angelica Bailey, have been duly authorized by
(name of individual)

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

County Council regarding CB32-2019 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: Rigby, Christiana
Sent: Monday, June 17, 2019 10:17 AM
To: Sayers, Margery
Subject: FW: CB 32-2019

Colette Gelwicks
Special Assistant

Councilwoman Christiana Mercer Rigby, District 3
Howard County Council
3430 Court House Drive, Ellicott City, MD 21043
cgelwicks@howardcountymd.gov
410.313.2421



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From: Paul Revelle <paul.revelle@gmail.com>
Sent: Saturday, June 15, 2019 11:06 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>
Subject: CB 32-2019

[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,

DPZ prepares a Technical Staff Report (TSR) in approval cases and provides a recommendation to the Planning Board based on the criteria for the specific case. The petitioner submits exhibits that propose how the project will meet the criteria. The TSR is available 2 weeks before the approval case is heard by the Planning Board. And the Director or his representative is available to the public those same two weeks to summarize the findings, explain the development process and answer related questions. At the hearing DPZ presents the case to the Planning Board, then the petitioner often makes a presentation after which citizens are invited to testify and to ask questions about the case. The members of the Board are active participants throughout the process, after which they discuss the case in public work session and then vote on the case. The Board is assisted throughout by an attorney from the Office of Law and the Director of Planning and Zoning.

All of which leads me to wonder what problem this legislation solves? It seems better suited to creating problems.

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 32-2019 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: 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



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June 17, 2019

Re: OPPOSITION TO CB32 – Requiring the Department of Planning and Zoning to testify under oath at Planning Board hearings

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 32, which essentially requires the Department of Planning and Zoning (“DPZ”) to testify under oath and be cross-examined at Planning Board hearings. Assuming the intent of this bill is to ensure DPZ provides accurate information to the Planning Board, it is unnecessary and will be ineffective.

First, this measure implies that there is an existing problem to fix; that DPZ cannot be relied upon to provide honest information to the Planning Board, and needs to be held to a higher standard in its presentations to the Board. MBIA has the utmost respect for the Director and hardworking staff of DPZ, and believes the Department is fair, judicious, and thorough. In fact, the Director of DPZ and Division of Land Development (“DLA”) Reviewer who present projects to the Planning Board are representatives presenting the findings of approximately 25 agencies who have weighed in on the approval of the project; with so many parties involved, proofing, and vetting the project’s specifications, the chances are slim that the “testimony” provided is manipulative or disingenuous. The Department should be given the respect and professional courtesy of presuming their findings, recommendations, and explanations are honest and accurate.

Furthermore, failing to testify honestly under oath comes with criminal consequences. Implementing potentially criminal consequences for a Department which surely works hard and does its best for the County is overly harsh and could have a chilling effect on DPZ’s communications with the Planning Board. The Planning Board should have as much information available as possible to make the best possible decision for the County; DPZ should be empowered to provide recommendations, not disincentivized.

Second, successful prosecution of a claim of perjury – defined in Maryland as knowingly and falsely making a statement of material fact under oath¹ - is rare. To sustain a perjury charge would require proof that the speaker knowingly lied. That is an enormously difficult standard for the State's Attorney to prove. Moreover, DPZ’s statements at Planning Board hearings are often opinions and recommendations, not objective statements of truth or falsehood. Opinions cannot be objectively proven false. This bill would end up being ineffective in its purpose.

DPZ has little reason to mislead the Planning Board, and should not be subjected to threats of criminal prosecution. This measure is excessive, and the MBIA respectfully requests that you vote NO to Council Bill 32-2019.

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

¹ Maryland Code, Criminal Law § 9-101.

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

