



Howard County Board of Appeals

George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043-4392

MINUTES

January 16, 2025

BA 795D – Kincade, LLC

BA 797D – Kincade, LLC

BA 799D – Kincade, LLC

BA 800D – Kincade, LLC

Hybrid Hearing (Banneker Room and Webex)

Board Members Present:

Gene Ryan, Chair
Felita Phillips, Vice Chair
Lynn Foehrkolb
Robbyn Harris
Jean Xu

Staff:

Kel Berg
Barry Sanders
Charity Respass

Call to order at: 9:02 a.m.

Administrative Matters

Vote for Chair and Vice Chair of Board of Appeals for 2025

- Motion to nominate Gene Ryan as Chair by Lynn Foehrkolb, 2nd Felita Phillips
Unanimously approved. The motion passed.
- Motion to nominate Lynn Foehrkolb as Vice Chair by Felita Phillips, 2nd Jean Xu
Unanimously approved. The motion passed.

Approval of Minutes – December 19, 2024
Motion – Lynn Foehrkolb, 2nd Felita Phillips
Unanimously approved. The motion passed.

BA 795D Kincade, LLC

Appeal of the Hearing Examiner's dismissal of Appellant's Appeal of DPZ's decision letter regarding SDP-22-042, Lakefront North dated February 3, 2023 (Lakefront Neighborhood - Phase 1, Little Patuxent Pkwy).

All members present confirmed that they completed a site visit of the subject property.

Preliminary Matters considered by the Board for BA 795D:

- Motion to Dismiss filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of Town Center East Parking Lot Business Trust, Town Center East Business Trust, and Sterrett Building Holdings, LLC (collectively "HRD") on December 13, 2023 and Response to Motion to Dismiss filed by Sanford Talkin, Esquire on behalf of Kincade, LLC on December 28, 2023.

The Board allows 5 minutes per side for Petitioners' and Respondents' oral arguments regarding the Motion and response thereto.

Board member questions for Sanford Talkin, Esquire on behalf of Petitioner Kincade, LLC.

Board member questions for Todd Brown, Esquire on behalf of Respondent HRD.

Board member questions for David Moore, Esquire on behalf of Respondent DPZ.

Deliberations regarding Motion to Dismiss filed by HRD and the response thereto.

The Board was polled – On Respondents' Motion to Dismiss, filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of HRD on December 13, 2023, the Board will vote to grant or deny.

Unanimously granted.

The Board granted Respondents' Motion to Dismiss, filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of HRD.

Recess

BA 797D Kincade, LLC

Administrative Appeal Petition of Planning Board's approval of PB-455 FDP-DC-L-2A Howard Research and Development (Lakefront Neighborhood - Phase 1, Little Patuxent Pkwy).

All members present confirmed that they completed a site visit of the subject property.

Preliminary Matters considered by the Board for BA 797D:

- Motion to Dismiss filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of Town Center East Parking Lot Business Trust, Town Center East Business Trust, and Sterrett Building Holdings, LLC (collectively "HRD") on December 13, 2023 and Response (unopposed) to Motion to Dismiss filed by Sanford Talkin on behalf of Kincade, LLC on December 26, 2023.

The Board was polled – On Respondents' Motion to Dismiss, filed by HRD on December 13, 2023, the Board will vote to grant or deny.

Unanimously granted.

The Board granted Respondents' Motion to Dismiss, filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of HRD.

BA 800D Kincade, LLC

Administrative Appeal Petition of Decision and Order dated July 13, 2023 (replacing a previous Decision and Order dated June 26, 2023) of Planning Board's approval of an amendment to FDP-DC-L-2A. (Lakefront Neighborhood - Phase 1, Little Patuxent Pkwy).

All members present confirmed that they completed a site visit of the subject property.

Preliminary Matters considered by the Board for BA 800D:

- Motion to Dismiss filed by Todd Brown, Esquire and Kyle Kirby, Esquire on behalf of Town Center East Parking Lot Business Trust, Town Center East Business Trust, and Sterrett Building Holdings, LLC (collectively "HRD") on September 18, 2023 and Response to Motion to Dismiss filed by Sanford Talkin on behalf of Kincade, LLC on September 29, 2023.

Motion to Dismiss is withdrawn by Todd Brown, Esquire on behalf of HRD.

BA 799D Kincade, LLC

Appeal of BA 799D / BA 801D (consolidated) Decision and Order of the Howard County Hearing Examiner by HRD (Lakefront Neighborhood – Phase 1, Little Patuxent Pkwy).

All members present confirmed that they completed a site visit of the subject property.

The Board discussed consolidating the de novo cases BA 799D and BA 801D. The Board discussed also consolidating the on the record cases BA 800D and BA 802D. The Board requests the parties to file joint motions for the consolidation of these cases.

The Board will hear cases BA 800D and BA 802D first and then will subsequently schedule BA 799D and BA 801D.

The Board agreed to allow Jessica Haire, Esquire on behalf of IMH Columbia to file an amended memorandum for BA 802D within 10 days and will allow opposition the opportunity to respond.

The Board requests the parties to provide a memorandum for BA 799D and BA 801D which contains points of law, pertinent published legal opinions and prior board decisions, a summary of preliminary legal issues for the Board's consideration, and standards of evaluation for the Board to contemplate when determining findings of fact and conclusions of law. Page limit of 10 single-spaced pages is due in 30 days. The Chair will submit an Order.

The next hearing date to continue these cases will be determined. The hearing date for BA 801D and BA802D is scheduled for January 23, 2025.

The Board adjourned at 11:59 a.m.

MINUTES APPROVED

Hel Berg 1/23/2025