

‘Board of NO Appeals’



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The Howard County Board of Appeals has been in the local news frequently in recent months. Three members resigned, citing undue pressure from County Council members whom they accused of disrupting the Board’s process. Those Council members denied any wrongdoing, stating that they were simply representing their constituents by expressing opinions about the Board’s actions and decisions.

Over the past year, several highly contentious cases have come before the BOA. These include a go-kart track built on residential property, a brewery hosting frequent large events that affect local traffic, and a proposed W.R. Grace plastic recycling facility. These cases generated significant neighborhood or community opposition. BOA members have stated that their decisions are based on the law. Opponents argue that the Board lacks the qualifications necessary to overturn decisions made by the Hearing Examiner, an attorney position, given that BOA members are not required to have legal experience or training.

For over a year, the County Council has discussed updating the BOA’s Rules of Procedure. This effort included legislation, public hearings, and substantial community input, but the legislation was allowed to expire. That was disappointing, as meaningful updates are clearly needed. The BOA serves as the county’s local appellate body; individuals appeal administrative county decisions before the BOA prior to proceeding to Circuit Court.

One of the most significant procedural problems is that the BOA conducts most proceedings as full rehearings rather than true appeals. In a standard appeal, new evidence is generally not permitted, and the appellate body’s role is to determine whether the original decision was legally sound. Instead, the BOA routinely conducts *de novo* hearings, in which the prior ruling is not only ignored but not allowed to even be referenced, and entirely new evidence is introduced. In practice, this turns appeals into do-overs rather than legal reviews.

This approach is time-consuming, costly, and frustrating for all parties involved. The BOA should function as an appeal board. Its members should receive thorough training in the zoning and

land-use laws they are charged with applying. At the same time, their proceedings should not be disrupted or improperly influenced.

Current Council Bill 7 (CB7) seeks to limit Council member communications with the BOA, but it fails to clearly define what constitutes “disruptive” behavior versus lawful, though perhaps uncomfortable, criticism. Ex parte communications, in which a party attempts to influence a decision-maker outside the formal process, are already prohibited. CB7 expands the list of disallowed conduct to include actions that “hinder, obstruct, or disrupt” proceedings, yet it does not provide sufficient specificity to determine what behavior would meet that standard.

The three BOA members who resigned have since rescinded their resignations, possibly in response to the introduction of CB7, which appears intended to protect them. Another proposal, Council Resolution 24 (CR24), would expand the BOA from five to seven members. This change could help address quorum issues when members must recuse themselves or otherwise miss hearings, and it would reflect the county’s population growth. In fact, it may be time for all county boards, even the County Council, to expand from five to seven members.

That said, simply adding members will not resolve the BOA’s underlying problems. The most effective solutions lay in updating the Rules of Procedure, requiring greater expertise and training, and ensuring that the Board conducts proper appellate hearings rather than routine *de novo* proceedings. The only “redo” an appeal body should initiate is to remand a case back to the original decision-maker for legal insufficiency, not to conduct an entirely new process itself.

The time and expense associated with BOA proceedings and subsequent appeals have become excessive. Both community advocates and land-use applicants deserve a clearer, more predictable, legally sound process, one that is fair for all, efficient, and grounded in professional standards. Let the Council know how you feel about these issues, and pending legislation at CouncilMail@HowardCountyMD.gov