

Ladies and Gentlemen:

On behalf of the Board of Appeals, thank you for seeking our views on the recently proposed legislation to establish an Administrative Hearing Officer. As you know, the Board has only that authority conferred on it by the Annapolis Code of Ordinances. That authority does not include advice on policy issues such as proposed legislation. Consistent with that limitation, we have summarized below a consensus of our collective thoughts on the proposed ordinance.

Overall, we are positive about the proposal. We think it could expedite the processing of applications, provide a better developed record for appeals and, we hope, improve opportunities for public participation in the process.

Of course, whether these goals can be met will depend on the level of support available to the Administrative Hearing Officer. We believe that an AHO should be available for hearings at least once a week and should keep an evening calendar. An AHO will need the services, as does the Board, of a devoted liaison to DPZ. It seems likely to us that overall costs may increase.

Here are a few specific suggestions.

It would be useful for an AHO to have experience in land use law.

The provisions of the bill dealing with an AHO's adoption of rules should be conformed with the recent legislation relating to the adoption of rules of City agencies, boards and commissions.

The proposal gives an AHO the power to call witnesses. We assume that includes City employees. Please consider granting the AHO authority to request other information, including documents, from the City. Together with the power to call

witnesses, these provisions provide a workable substitute for a formal discovery mechanism.

The Board has often heard complaints that conditions placed on variances and special exceptions by the Board are ignored and not enforced. Please consider giving an AHO powers to enforce such conditions such as by the the issuance of an order to show cause why a variance or exemption should not be withdrawn.

Recognizing that the issue does not fall with the area of our experience as members of the Board, one member suggests that the appointment authority should not be vested in a single individual.

We hope you find these comments to be helpful.

Thank you,

Bob Gallagher, Chair