



Howard County Board of Appeals

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

MINUTES

November 6, 2025

BA 818D and BA 819D – Agila Sundaram and Mukesh Kumar (continued) + Work Session Hybrid Hearing (Banneker Room and Webex)

Board Members Present:

Gene Ryan, Chair
Lynn Foehrkolb, Vice Chair
Robbyn Harris
Marisa McCurdy
Felita Phillips

Staff:

Kel Berg
Tsega Girma Kyere
Kiasten Miller

Call to order at: 9:04 a.m.

Administrative Matters

Approval of Minutes – October 16, 2025
Motion – Lynn Foehrkolb, 2nd Felita Phillips
Unanimously approved. The motion passed.

BA 818D – Agila Sundaram and Mukesh Kumar (continued from October 16, 2025) Appeal of Hearing Examiner's Decision and Order dated August 4, 2025, which denied Appellant's appeal of DPZ decision letter for alternative compliance application WP-25-066 (3956 Old Columbia Pike, Ellicott City, MD 21043).

BA 819D – Agila Sundaram and Mukesh Kumar (continued from October 16, 2025) Appeal of Hearing Examiner's Decision and Order dated August 4, 2025, which denied Appellant's appeal of DPZ decision letter for alternative compliance application WP-25-045 (3956 Old Columbia Pike, Ellicott City, MD 21043).

The Board confirmed the following documents were received:

- Memorandum of Points and Authorities, submitted by Sang Oh, Esquire on behalf of Appellants on October 23, 2025
- BA 818D/BA 819D Memorandum submitted by Tsega Girma Kyere on October 29, 2025

Board discussion and clarification of BA 818D and BA 819D.

Motion and Vote

Motion to waive confidentiality privilege of Office of Law Memorandum dated October 29, 2025.

Motion – Lynn Foehrkolb, 2nd Felita Phillips

*Yea: Board Members Foehrkolb, Phillips and Ryan. Nay: Board Members Harris and McCurdy.
Approved 3-2. **The motion passed.***

Recess

Board member questions for Mr. Sam Alomer.

Ms. Girma Kyere stated that the record should be amended to allow for the inclusion of DPZ's alternative compliance files:

- BA-818D – Appeal of HE's denial of WP-25-066
- BA-819D – Appeal of HE's denial of WP-25-045

Recess

Follow up Board member questions for Mr. Sam Alomer.

Closing arguments.

Petitioners' Summations

Mr. Sang Oh

Deliberations:

Board enters into deliberations for cases BA 818D and BA 819D Agila Sundaram and Mukesh Kumar.

Straw poll – Were DPZ's decision letters arbitrary, capricious and contrary to law; the Board will vote yes or no.

*Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.
Agreed 4-1.*

Straw poll – Does the Board have the authority to approve the appeal; the Board will vote yes or no.

*Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Abstain: Board Member McCurdy.
Agreed 4-0*

Motions and Votes:

On the Motion that the DPZ decision letter for BA 818D Agila Sundaram and Mukesh Kumar was arbitrary, capricious and contrary to law, the Board will vote yes or no.

Motion – Gene Ryan, 2nd Lynn Foehrkolb

Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.

*Agreed 4-1. **The motion passed.***

On the Motion that the DPZ decision letter for BA 819D Agila Sundaram and Mukesh Kumar was arbitrary, capricious and contrary to law, the Board will vote yes or no.

Motion – Gene Ryan, 2nd Lynn Foehrkolb

Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.

*Agreed 4-1. **The motion passed.***

On the Motion that the Board remand to DPZ, DPW and Office of Community Sustainability to provide additional explanation on the requirement to consider Section 16.119 of the Howard County Code regarding an appellant's subdivision rights when granting variances, the Board will vote to grant or deny.

Motion – Marisa McCurdy, 2nd N/A

The motion failed for lack of a 2nd.

On the Motion to approve Alternate Compliance Waiver WP-25-066 for BA 818D Agila Sundaram and Mukesh Kumar, the Board will vote to grant or deny.

Motion – Felita Phillips, 2nd Lynn Foehrkolb

Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.

*Approved 4-1. **The motion passed.***

On the Motion to approve Alternate Compliance Waiver WP-25-045 for BA 819D Agila Sundaram and Mukesh Kumar, the Board will vote to grant or deny.

Motion – Felita Phillips, 2nd Lynn Foehrkolb

Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.

*Approved 4-1. **The motion passed.***

On the Motion to order the Director of Finance to refund all administrative hearing and filing fees to the Appellants in BA 818D and BA 819D Agila Sundaram and Mukesh Kumar, in accordance with Section 2.202(f) regarding the Board of Appeals reversal of the decision of an administrative agency after an appeal hearing pursuant to this subtitle, the Board will vote to grant or deny.

Motion – Gene Ryan, 2nd Felita Phillips

Yea: Board Members Foehrkolb, Harris, Phillips and Ryan. Nay: Board Member McCurdy.

*Approved 4-1. **The motion passed.***

The Board agreed that the DPZ decision letters for BA 818D and BA 819D Agila Sundaram and Mukesh Kumar were arbitrary, capricious and contrary to law. The Board approved the alternate compliance waivers for BA 818D and BA 819D, and the Board approved the order to the Director of Finance to refund all administrative hearing and filing fees BA 818D and BA 819D.

Work Session – Decision and Order Process

**Board Member McCurdy attended the Work Session as an observer only.*

The Board Chair stated that a Work Session was being called to discuss the Decision and Order process, and that there should be no discussion on the merits of any case where a filed Decision and Order (D&O) has not been issued.

Ms. Phillips stated that there were foundational errors in the Decision and Order drafted for BA 24-022C, and that there was no distinction between the revised versions. Ms. Phillips stated that the D&O sent from Office of Law was not as concise or clear as previous D&Os that have been issued.

Ms. Harris stated version control was needed in the naming of the documents and recommended that the file name include the date.

Mr. Ryan stated that case law was cited that did not reflect what was said, that an extension was not requested and that the D&O did not have the correct hearing dates or parties listed. Mr. Ryan stated that Ms. Girma Kyere was not following the Board's direction.

Ms. Foehrkolb stated that a D&O should be a statement of what transpired at the hearing, Board decisions, and the Order stating what was decided. She stated that the draft D&O she received required numerous corrections and that unnecessary elements were included. Ms. Foehrkolb stated that the D&O was too long, hard to follow, and that it was taking a long time to complete. Ms. Foehrkolb asked Ms. Girma Kyere for the most recent version and stated that she will not resign from the Board until she has signed the D&Os.

Ms. Girma Kyere stated that the Board did not cite the specific issues in the D&O for corrections and that she reviewed previous D&Os that were drafted. She requested more information from the Board on identifying specific errors. Ms. Girma Kyere stated that the D&O draft is legally sufficient, that she has made the corrections, and that she is not taking any longer than the previous attorney to produce D&Os. She stated that when she anticipated that the completion of the D&O would go beyond 30 days, she emailed the Board for any issues or questions, and that she received no reply.

Mr. Ryan asked Ms. Girma Kyere if she will meet the deadline for BA 813D and she replied that the D&O for that case is almost complete and that the Board will receive it within the next 2 weeks. Mr. Ryan stated that he was told by Mr. Gary Kuc that Ms. Foehrkolb would not be permitted to sign the D&O if she was not a Board member. Ms. Girma Kyere replied that Ms. Foehrkolb will be able to sign the D&O and that she will confirm with Mr. Kuc.

Mr. Ryan recommended the following:

- reinstate explicit statutory and case references
- separate evidentiary findings
- reference exhibits
- use numbers to enhance traceability
- include a signature block

- double spacing
- reorganize factual and legal reasoning
- clarify the burden of proof
- convert narrative portions to numbered findings
- include property descriptions and summary of testimony with exhibit references
- reintroduce a list of incorporated documents
- add proper de novo appeal language and legal standards
- insert certifications
- identify hearing dates and attendees.

Ms. Girma Kyere recommended that going forward the Board members should redline the D&O document. She stated that she will wait to receive comments from every member by a certain date, at which time she will send a draft back reflecting all of the changes. Ms. Girma Kyere stated that there is no Open Meetings Act violation in discussing D&Os with her.

Ms. Harris recommended that Ms. Girma Kyere send out the first draft and ask for replies from the Board within a week. Ms. Harris stated that Board members should reply to all, and at the end of week, even if comments are not received from each member, revise the document and send it out within 3 business days. Ms. Harris asked if Office of Law could provide the criteria for basing decisions to the Board and Ms. Girma Kyere replied yes. Ms. Harris asked if there were standards for creating D&Os and Ms. Girma Kyere replied that they was stated in the rules.

Ms. Girma Kyere requested that the Board send their edits for BA 24-022C by November 10, 2025.

Mr. Ryan recommended that for BA 22-023C&V the Board could order a proposed D&O on the proposed finding of fact and conclusion of law and on the record stipulations. Mr. Ryan stated that an extension for BA 813D will be needed.

The Board adjourned at 3:20 p.m.

MINUTES APPROVED

Kel L. Berg

11/14/2025