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By: **Charles County Delegation**

Introduced and read first time: February 13, 1998

Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Charles County - Zoning - Special Exceptions - ~~County Commissioners~~**  
3 **Administrative Appeals**

4 FOR the purpose of authorizing the County Commissioners of Charles County to  
5 adopt procedures to hear and decide certain special exceptions on appeal from  
6 the board of ~~appeal appeals~~ in a certain manner; providing that, under certain  
7 circumstances, certain actions of the County Commissioners shall be final  
8 actions subject to appeal in a certain manner; ~~providing for the effective date of~~  
9 ~~this Act~~; and generally relating to the authority of the county commissioners of  
10 Charles County over special exceptions.

11 BY repealing and reenacting, with amendments,  
12 Article 66B - Zoning and Planning  
13 Section 4.07  
14 Annotated Code of Maryland  
15 (1995 Replacement Volume and 1997 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article 66B - Zoning and Planning**

19 4.07.

20 (a) (1) The local legislative body shall provide for the appointment of a board  
21 of appeals.

22 (2) The board of appeals consists of three or five members.

1 (3) The terms of office of the members of the board are three years.

2 (4) The members of the board shall be appointed by the local executive,  
3 and confirmed by the local legislative body.

4 (5) A member of the board may be removed for cause, upon written  
5 charges, and after a public hearing.

6 (6) Vacancies shall be filled for the unexpired terms of any member  
7 whose term becomes vacant.

8 (7) Members of the board may receive compensation as the local  
9 legislative body deems appropriate.

10 (b) (1) The local legislative body shall designate one alternate member for  
11 the board of appeals who may be empowered to sit on the board in the absence of any  
12 member of the board.

13 (2) When the alternate is absent, the local legislative body may  
14 designate a temporary alternate.

15 (b-1) Notwithstanding subsection (a) of this section, in Frederick County and St.  
16 Mary's County the board members may be appointed to staggered terms varying from  
17 one to three years.

18 (b-2) Notwithstanding subsection (a) of this section, in Charles County, board  
19 members shall be appointed to staggered terms of 4 years.

20 (b-3) (1) Notwithstanding subsection (a) of this section, in Cecil County, the  
21 board has five regular members and one alternate member.

22 (2) Board members serve for 3-year staggered terms.

23 (3) At the end of a term, a member continues to serve until a successor is  
24 appointed and qualifies.

25 (4) A member who is appointed after a term has begun serves only for  
26 the rest of the term and until a successor is appointed and qualifies.

27 (c) The board shall adopt rules in accordance with the provisions of any  
28 ordinance adopted pursuant to this article. Meetings of the board shall be held at the  
29 call of the chairman and at such other times as the board may determine. Such  
30 chairman or in his absence, the acting chairman, may administer oaths and compel  
31 the attendance of witnesses. All meetings of the board shall be open to the public. The  
32 board shall make a transcript of all proceedings, showing the vote of each member  
33 upon each question, or, if absent or failing to vote, indicating such fact, which shall be  
34 immediately filed in the office of the board and shall be a public record.

35 (d) The board of appeals shall have the following powers:

1 (1) To hear and decide appeals where it is alleged there is error in any  
2 order, requirement, decision, or determination made by an administrative official in  
3 the enforcement of this article or of any ordinance adopted pursuant thereto.

4 (2) To hear and decide special exceptions to the terms of the ordinance  
5 upon which such board is required to pass under such ordinances.

6 (3) To authorize upon appeal in specific cases a variance from the terms  
7 of the ordinance.

8 (E) (1) THIS SUBSECTION APPLIES ONLY:

9 (I) IN CHARLES COUNTY; AND

10 (II) TO AN APPLICATION FOR A SPECIAL EXCEPTION FOR SURFACE  
11 MINING, AN ASPHALT PLANT, CONCRETE PLANT, OR SAND AND GRAVEL WASHING,  
12 CRUSHING, OR SCREENING.

13 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE  
14 COUNTY COMMISSIONERS MAY HEAR AND DECIDE A SPECIAL EXCEPTION, ~~ON THE~~  
15 ~~RECORD~~, UNDER AN APPEAL FILED BY A PROPERTY OWNER AGGRIEVED BY A  
16 DECISION OF THE BOARD OF APPEALS ON THE SPECIAL EXCEPTION, IN ACCORDANCE  
17 WITH RULES AND PROCEDURES ADOPTED BY THE COUNTY COMMISSIONERS.

18 (3) IF THE COUNTY COMMISSIONERS ADOPT RULES AND PROCEDURES  
19 FOR CONSIDERING A SPECIAL EXCEPTION UNDER THIS SUBSECTION, THE DECISION  
20 OF THE COUNTY COMMISSIONERS TO GRANT, DENY, MODIFY, OR REMAND THE  
21 APPLICATION FOR THE SPECIAL EXCEPTION IS A FINAL DECISION FROM WHICH AN  
22 APPEAL MAY BE TAKEN TO THE CIRCUIT COURT UNDER § 4.08 OF THIS SUBTITLE.

23 [(e)] (F) Appeals to the board of appeals may be taken by any person  
24 aggrieved or by any officer, department, board or bureau of the jurisdiction affected by  
25 any decisions of the administrative officer. Such appeal shall be taken within a  
26 reasonable time, as provided by the rules of the board, by filing with the officer from  
27 whom the appeal is taken and with the board of appeals a notice of appeal specifying  
28 the grounds thereof. The officer from whom the appeal is taken shall forthwith  
29 transmit to the board all the papers constituting the record upon which the action  
30 appealed from was taken.

31 [(f)] (G) An appeal stays all proceedings in furtherance of the action appealed  
32 from, unless the officer from whom the appeal is taken certifies to the board of  
33 appeals after notice of appeal shall have been filed with him that by reason of the  
34 facts stated in the certificate a stay would, in his opinion, cause imminent peril to life  
35 or property. In such case proceedings shall not be stayed otherwise than by a  
36 restraining order which may be granted by the board of appeals or by a court of record  
37 on application on notice to the officer from whom the appeal is taken and on due  
38 cause shown.

39 [(g)] (H) The board of appeals shall fix a reasonable time for the hearing of the  
40 appeal, give public notice thereof, as well as due notice to the parties in interest, and

1 decide the same within a reasonable time. Upon the hearing any party may appear in  
2 person or by agent or by attorney.

3 [(h)] (I) In exercising the above-mentioned powers such board may, in  
4 conformity with the provisions of this article, reverse or affirm, wholly or partly, or  
5 may modify the order, requirement, decision, or determination appealed from and  
6 make such order, requirement, decision or determination as ought to be made, and to  
7 that end shall have all the powers of the officer from whom the appeal is taken.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 ~~December 31, 1998.~~ October 1, 1998.