

SENATE BILL 733

L6

6lr2095

By: Senator M. Washington

Introduced and read first time: February 6, 2026

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – Definitions and Boards of Appeals**

3 FOR the purpose of altering certain definitions and defining certain terms applicable to
4 land use; altering requirements for the appointment and removal of members of a
5 board of appeals; altering and repealing certain powers of a board of appeals; altering
6 the procedures applicable to certain proceedings before a board of appeals; and
7 generally relating to land use.

8 BY repealing and reenacting, with amendments,

9 Article – Land Use
10 Section 1–101, 4–301, 4–302, and 4–306
11 Annotated Code of Maryland
12 (2012 Volume and 2025 Supplement)

13 BY repealing

14 Article – Land Use
15 Section 4–304 and 4–305
16 Annotated Code of Maryland
17 (2012 Volume and 2025 Supplement)

18 BY adding to

19 Article – Land Use
20 Section 4–302.1, 4–304, and 4–305
21 Annotated Code of Maryland
22 (2012 Volume and 2025 Supplement)

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

25 **Article – Land Use**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1–101.

2 (a) In this division the following words have the meanings indicated.

3 (b) “Adaptive reuse” means a change granted by a legislative body under § 4–207
4 of this article to the use restrictions in a zoning classification, as those restrictions are
5 applied to a particular improved property.

6 **(C) “BOARD OF APPEALS” MEANS AN INDEPENDENT, QUASI–JUDICIAL BODY**
7 **THAT INTERPRETS AND APPLIES LOCAL ZONING, LICENSING, AND LAND–USE**
8 **ORDINANCES.**

9 **[(c)] (D)** “Charter county” means a county that has adopted charter home rule
10 under Article XI–A of the Maryland Constitution.

11 **[(d)] (E)** “Code county” means a county that has adopted code home rule under
12 Article XI–F of the Maryland Constitution.

13 **[(e)] (F)** “County” means a county of the State or Baltimore City.

14 **[(f)] (G)** (1) “Development” means an activity that materially affects the
15 **[existing] PHYSICAL** condition **[or use of any land or structure] OF LAND, WATER, OR AIR,**
16 **INCLUDING MODIFICATIONS TO STRUCTURES, UTILITIES, OR NATURAL FEATURES.**

17 (2) “Development” does not include a normal agricultural activity.

18 **(H) “DEVELOPMENT RIGHTS” MEANS THE RIGHTS TO USE, CONTROL,**
19 **PRESERVE, OR DEVELOP LAND, WHETHER OR NOT EXERCISED, AS AUTHORIZED BY**
20 **STATE OR LOCAL LAW OR APPLICABLE LAND USE OR ZONING REGULATIONS.**

21 **[(g)] (I)** (1) “Legislative body” means the elected body of a local jurisdiction.

22 (2) “Legislative body” includes:

23 (i) the board of county commissioners;

24 (ii) the county council; and

25 (iii) the governing body of a municipal corporation.

26 **[(h)] (J)** (1) “Local executive” means the chief executive of a local jurisdiction.

27 (2) “Local executive” includes:

28 (i) the board of county commissioners;

- (ii) the county executive;
- (iii) the executive head; and
- (iv) the mayor.

(i) (K) "Local jurisdiction" means a county or municipal corporation and the territory within which its powers may be exercised.

[(j)] (L) (1) "Local law" means an enactment of the legislative body of a local jurisdiction, whether by ordinance, resolution, or otherwise.

(2) "Local law" does not include a public local law.

(M) "PERMIT" MEANS AN OFFICIAL DOCUMENT OR AUTHORIZATION FROM A STATE OR LOCAL GOVERNMENT UNIT TO PERFORM A SPECIFIC DEVELOPMENT ACTIVITY SUBJECT TO EXPIRATION DATES AND CERTAIN CONDITIONS FOR ISSUANCE, REVOCATION, AND RENEWAL.

13 **(k) (N)** "Person" means an individual, receiver, trustee, guardian, personal
14 representative, fiduciary, representative of any kind, partnership, firm, association,
15 corporation, limited liability company, or other entity.

16 **(l) (o)** (1) “Plan” means the policies, statements, goals, and interrelated
17 plans for private and public land use, transportation, and community facilities documented
18 in texts and maps that constitute the guide for an area’s future development.

22 [(m)] (P) “Priority funding area” has the meaning stated in § 5-7B-02 of the
23 State Finance and Procurement Article.

24 [n] (Q) (1) "Regulation" means a rule of general applicability and future
25 effect.

26 (2) "Regulation" includes a map or plan.

27 (R) "RESIDENT" MEANS A PERSON WHO

26 OCCUPANCY OR LIVES IN A DWELLING UNIT LOCATED WITHIN A SPECIFIC ZONING
27 DISTRICT OR STATE OR LOCAL JURISDICTION THAT IS SUBJECT TO SPECIFIC LAWS,
30 ORDINANCES, AND CODES.

31 [b] (5) Sensitive area includes.

- 1 (1) a stream or wetland, and its buffers;
- 2 (2) a 100–year flood plain;
- 3 (3) a habitat of a threatened or endangered species;
- 4 (4) a steep slope;
- 5 (5) agricultural or forest land intended for resource protection or
- 6 conservation; and
- 7 (6) any other area in need of special protection, as determined in a plan.

8 **[(p)] (T)** “Special exception” means a grant of a specific use that:

- 9 (1) would not be appropriate generally or without restriction; and
- 10 (2) shall be based on a finding that:

11 (i) the requirements of the zoning law governing the special
12 exception on the subject property are satisfied; and

13 (ii) the use on the subject property is consistent with the plan and is
14 compatible with the existing neighborhood.

15 **[(q)] (U)** (1) Except as provided in paragraph (2) of this subsection, “state”
16 means:

17 (i) a state, possession, territory, or commonwealth of the United
18 States; or

19 (ii) the District of Columbia.

20 (2) When capitalized, “State” means Maryland.

21 **[(r)] (V)** (1) “Subdivision” means:

22 (i) the process and configuration of land by which one or more lots,
23 tracts, or parcels of land are divided, consolidated, or established as one or more lots or
24 parcels, or other divisions of land, consistent with criteria established by the legislative
25 body of the local jurisdiction; or

26 (ii) the land so subdivided.

27 (2) “Subdivision” includes resubdivision.

1 [(s)] (W) “Variance” means a modification only of density, bulk, dimensional, or
2 area requirements in the zoning law that is not contrary to the public interest, and where,
3 owing to conditions peculiar to the property and not because of any action taken by the
4 applicant, a literal enforcement of the zoning law would result in unnecessary hardship or
5 practical difficulty, as specified in the zoning law.

6 [(t)] (X) (1) “Zoning law” means the legislative implementation of
7 regulations for zoning by a local jurisdiction **UNDER AUTHORITY GRANTED BY THIS**
8 **ARTICLE.**

9 (2) “Zoning law” includes [a zoning ordinance, zoning regulation, zoning
10 code, and any similar legislative action to implement zoning controls in a local jurisdiction]
11 **AN ORDINANCE, A REGULATION, A CODE, OR AN ADMINISTRATIVE PROCEDURE FOR**
12 **PLANNING, PERMITTING, OR DECISION MAKING UNDER THIS ARTICLE.**

13 4–301.

14 (a) [A] **THE** legislative body **OF EACH LOCAL JURISDICTION** shall [provide for
15 the appointment of] **ESTABLISH** a board of appeals.

16 (b) [The] **A MEMBER OF A** legislative body may not serve [as] **ON** the board of
17 appeals **FOR THE LOCAL JURISDICTION FOR WHICH THE INDIVIDUAL IS A MEMBER**
18 **OF THE LEGISLATIVE BODY.**

19 (C) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
20 **THE MEMBERS OF A BOARD OF APPEALS SHALL BE APPOINTED BY:**

21 (I) **THE LEGISLATIVE BODY; OR**

22 (II) **THE PERSON DESIGNATED AS THE APPOINTING AUTHORITY**
23 **IN THE LOCAL LAW ESTABLISHING THE BOARD OF APPEALS.**

24 (2) **IF THERE IS A SINGLE ELECTED LOCAL EXECUTIVE, THE**
25 **MEMBERS OF THE BOARD OF APPEALS SHALL BE APPOINTED BY THE LOCAL**
26 **EXECUTIVE AND CONFIRMED BY THE LEGISLATIVE BODY.**

27 4–302.

28 (a) [A] **EACH** board of appeals [consists] **SHALL CONSIST** of at least three
29 members.

30 [(b) A member of a board of appeals shall be appointed by the local executive and
31 confirmed by the legislative body.]

32 [(c)] (B) The term of office of a member of a board of appeals is 3 years.

1 [(d) (1) A member of a board of appeals may be removed by the local executive
2 for:

3 (i) incompetence;

4 (ii) misconduct; or

5 (iii) in the same manner as for a member of a State board or
6 commission:

11 (2) The local executive shall provide to the member:

12 (i) a written statement of charges stating the grounds for removal;
13 and

(ii) an opportunity for a public hearing to contest the charges.

15 (e) The appointing authority shall appoint a new member to fill the unexpired
16 term of any member who leaves a board of appeals.

17 (f) (1) A legislative body shall designate one or more alternate members for
18 the board of appeals who may sit on the board when another member of the board is absent
19 or recused.

20 (2) When an alternate member is absent or recused, the legislative body
21 may designate a temporary alternate.]

22 4-302.1.

23 (A) A MEMBER OF A BOARD OF APPEALS MAY BE REMOVED BY THE LOCAL
24 EXECUTIVE IN THE MANNER PROVIDED UNDER § 8-502 OR § 10-1701 OF THE STATE
25 GOVERNMENT ARTICLE FOR THE REMOVAL OF A MEMBER OF A STATE BOARD OR
26 COMMISSION.

27 (B) THE LOCAL EXECUTIVE SHALL PROVIDE TO THE MEMBER:

28 (1) A WRITTEN STATEMENT OF CHARGES STATING THE GROUNDS FOR
29 REMOVAL; AND

(2) AN OPPORTUNITY FOR A PUBLIC HEARING TO CONTEST THE
CHARGES.

3 (C) THE APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO FILL
4 THE UNEXPIRED TERM OF ANY MEMBER WHO LEAVES A BOARD OF APPEALS.

5 (D) A LEGISLATIVE BODY SHALL DESIGNATE ONE OR MORE ALTERNATE
6 MEMBERS FOR THE BOARD OF APPEALS WHO MAY SIT ON THE BOARD WHEN
7 ANOTHER MEMBER OF THE BOARD IS ABSENT OR RECUSED.

8 (E) WHEN AN ALTERNATE MEMBER IS ABSENT OR RECUSED, THE
9 LEGISLATIVE BODY MAY DESIGNATE A TEMPORARY ALTERNATE.

10 [4-304.

11 (a) A board of appeals shall adopt rules in accordance with any local law adopted
12 under this division.

13 (b) A member of a board of appeals shall recuse himself or herself from
14 participating in a matter in which the member may have a conflict of interest or an
15 appearance of a conflict of interest.

16 (c) (1) (i) A board of appeals shall make a recording of all proceedings with
17 a contemporaneous written record showing the vote of each member on each question or
18 the member's absence or failure to vote.

19 (ii) 1. A board of appeals shall immediately file the recording of
20 its proceedings in the office of the board.

21 2. The recording shall be a public record.

22 (2) If a recording or a transcript of a recording is not prepared in the normal
23 course of the board's proceedings, the party who requests a copy of the recording or its
24 transcript shall pay the cost of preparing the recording or transcript.]

25 4-304.

A BOARD OF APPEALS ESTABLISHED UNDER THIS SUBTITLE SHALL:

4 [4-305.]

5 A board of appeals may:

(1) hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer or unit under this division or of any local law adopted under this division;

11 (3) authorize on appeal in specific cases a variance from the terms of a local
12 law.]

13 4-305.

14 (A) A BOARD OF APPEALS SHALL ADOPT RULES IN ACCORDANCE WITH A
15 LOCAL LAW ADOPTED UNDER THIS DIVISION.

16 (B) A MEMBER OF A BOARD OF APPEALS SHALL RECUSE THEMSELVES FROM
17 PARTICIPATING IN A MATTER IN WHICH THE MEMBER MAY HAVE A CONFLICT OF
18 INTEREST OR AN APPEARANCE OF A CONFLICT OF INTEREST.

19 (C) (1) A BOARD OF APPEALS SHALL MAKE A RECORDING OF ALL
20 PROCEEDINGS WITH A CONTEMPORANEOUS WRITTEN RECORD SHOWING THE VOTE
21 OF EACH MEMBER ON EACH QUESTION OR THE MEMBER'S ABSENCE OR FAILURE TO
22 VOTE.

(D) THE RECORDING SHALL BE A PUBLIC RECORD

26 4-306

27 (a) An appeal **UNDER THIS TITLE OR TITLE 3 OF THIS ARTICLE** to the board of
28 appeals may be filed by:

29 (1) a person **OR RESIDENT** aggrieved by a decision of the administrative
30 officer or unit; or

(2) an officer or unit of the jurisdiction affected by a decision of the administrative officer or unit.

3 (b) A person **OR RESIDENT** shall file an appeal within[, a reasonable time] **30**
4 **DAYS AS** provided by the rules **[of] ADOPTED AND PUBLISHED BY** the board of appeals
5 **[by filing with the administrative officer or unit from whose action the appeal is taken and**
6 **with the board of appeals a notice of appeal specifying the grounds of the appeal].**

7 (c) (1) [The administrative officer or unit from whose action the appeal is
8 taken shall transmit promptly to the board all papers constituting the record of the action
9 appealed] **A NOTICE OF INTENT TO APPEAL SHALL BE FILED IN WRITING AND**
10 **TRANSMITTED TO THE BOARD OF APPEALS.**

17 (d) [(1) Except as provided in paragraph (2) of this subsection, an] AN appeal
18 to a board of appeals stays all proceedings in furtherance of the [action] ORDER,
19 REQUIREMENT, IMPLEMENTATION MECHANISM, DECISION, OR DETERMINATION
20 BEING appealed.

21 [(2) If an administrative officer or unit certifies to the board of appeals facts
22 stated in the certificate that indicate to the administrative officer or unit that a stay would
23 cause imminent peril to life or property, the board of appeals or the circuit court may stay
24 the proceedings:

25 (i) only for good cause shown; and

26 (ii) through issuing a restraining order after notice is given to the
27 administrative officer or unit.]

28 (e) (1) A board of appeals shall:

29 (i) establish a reasonable time for the hearing of an appeal;

30 (ii) give public notice of the existence of the appeal and of the
31 hearing;

(iii) give due notice to the parties in interest and to other persons entitled to notice under local law or the rules of the board of appeals; and

3 (iv) decide the appeal within a reasonable time.

4 (2) At a hearing, a party may:

5 (i) appear in person; or

6 (ii) be represented by an agent or attorney.

7 (f) [(1)] A board of appeals may, in conformity with this division:

14 (iv) issue a new order, requirement, or decision].

15 [(2) The board of appeals shall have all the powers of the administrative
16 officer or unit from whose action the appeal is taken.]

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2026.