

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2022, Legislative Day No. 4

Bill No. 12-22

Councilmembers Jones, Marks, Patoka & Kach

By the County Council, February 22, 2022

A BILL
ENTITLED

AN ACT concerning

County Code – Board of Appeals – Rules of Practice and Procedure

FOR the purpose of approving amendments to the Rules of Practice and Procedure of the Board of Appeals; removing certain requirements for hearings; removing gendered references; clarifying terms regarding administrative law judge; prohibiting certain audio recordings and transcripts of hearings and deliberations; providing for authorization for representatives of associations under certain circumstances; clarifying hearings compliance with the Open Meetings Act; providing for procedures to handle certain disruptive conduct during proceedings; providing for recordings of certain proceedings by the public; and generally relating to the Rules of Practice and Procedure of the Board of Appeals.

BY repealing and re-enacting, with amendments

Appendix B
Rules of Practice and Procedure of County Board of Appeals
Baltimore County Code, 2015

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Appendix B: Rules of Practice and Procedure of the Baltimore
3 County Board of Appeals of the Baltimore County Code shall read as follows:
4

5 APPENDIX B: RULES OF PRACTICE AND PROCEDURE
6 OF THE BALTIMORE COUNTY BOARD OF APPEALS
7

8 [Rule 1. General.

9 a. The county board of appeals shall select one of its members to be the chairman of the
10 board, and he shall serve as chairman at the pleasure of the board. The chairman shall preside at
11 all meetings of the county board of appeals, and in his absence he shall designate another
12 member of the board to sit in his place as acting chairman.

13 b. Meetings of the county board shall be held as determined by the chairman, but never
14 less than weekly; and the board shall meet at such other times as the board may determine.

15 c. Three (3) members of the board of appeals, as designated by the chairman, shall sit for
16 the purpose of conducting the business of the board; and a majority vote of two (2) members
17 shall be necessary to render a decision, except as follows:

18 1. During the course of a hearing, if any member of the original panel is unable to
19 continue to serve, the chairman shall appoint a member to fill the vacancy; or

20 2. In the case of a remand, if any member of the original panel is unable to serve,
21 the chairman shall appoint a member to fill the vacancy.

22 d. All appeals to the board from decisions of the zoning commissioner or deputy zoning
23 commissioner shall be in conformance with the rules of the zoning commissioner of Baltimore

1 County with respect to the form of appeal, and the filing fees shall be as established either by
2 said rules of the zoning commissioner or by the Baltimore County Zoning Regulations.

3 e. Unless authorized by the board, a person may not take photographs, motion pictures or
4 audio or video recordings of any kind during the conduct of a hearing before the board or during
5 any public deliberation of the board.

6
7 Rule 2. Notice.

8 a. No hearing shall be conducted without at least ten (10) days' notice to all parties of
9 record or their counsel of record, unless otherwise agreed to by all such parties or their counsel
10 of record.

11 b. Postponements and continuances will be granted at the discretion of the board only
12 upon request in writing by an attorney of record or a party of record (if not represented by
13 counsel), addressed to the board and with a copy to every other attorney of record or party of
14 record (if not represented by counsel) entitled to receive notice, in accordance with section
15 500.11 of the Baltimore County Zoning Regulations, setting forth good and sufficient reasons for
16 the requested postponement.

17 c. No postponement shall be granted within fifteen (15) days next prior to the hearing
18 date except in extraordinary circumstances and for a reason satisfactory to the board, given by
19 the party requesting such postponement indicating that the circumstances requiring the
20 postponement are of any unusual and extraordinary nature.

21 d. All records and dockets of the board shall be open to the public during normal
22 business hours.

1 e. In appeals from decisions of the zoning commissioner, formal notice of hearings,
2 continuances and decisions of the board will be provided only to those persons entitled to receive
3 same in accordance with section 500.11 of the Baltimore County Zoning Regulations.
4

5 Rule 3. Appeals.

6 a. No appeal shall be entertained by the board of appeals unless the notice of appeal shall
7 state the names and addresses of the persons taking such appeal.

8 b. 1. An appeal may be withdrawn or dismissed at any time prior to the conclusion
9 of the hearing on said appeal.

10 2. A request for withdrawal of a petition shall be filed in writing with the board.
11 A petitioner who wishes to have a petition withdrawn and dismissed without prejudice shall
12 withdraw the petition not less than 10 days before the scheduled hearing date. A petition that is
13 withdrawn less than 10 days before the scheduled hearing date shall be dismissed with prejudice.
14 A petition that is dismissed with prejudice under this paragraph may not be resubmitted for a
15 period of eighteen (18) months after the dismissal.

16 c. Unless otherwise provided for by statute, all appeals to the board of appeals, subject to
17 and limited by statutory authority to hear appeals, shall be made within thirty (30) days from the
18 date of the final action appealed.
19

20 Rule 4. Conduct of Hearings.

21 a. All hearings held by the county board of appeals shall be open to the public. No
22 hearing shall be private even though all parties agree. The county board of appeals shall have the
23 power to administer oaths, and all witnesses shall testify under oath.

1 b. The chairman shall regulate the course of the hearing and shall rule upon procedural
2 matters, applications, modifications and objections made during the course of the hearing,
3 subject to the concurrence of a majority of the board conducting the hearing.

4 c. A hearing may be adjourned from time to time for good cause shown and if the time
5 and place of reconvening the hearing is announced at adjournment, no further notice of
6 reconvening shall be required. If the time and place of reconvening is not announced at
7 adjournment, notice of time and place of reconvening shall be given as required in rule 2a.

8 d. Depositions shall not be allowed unless by agreement of all parties or their counsel of
9 record.

10
11 Rule 5. Subpoenas.

12 a. The county board of appeals shall have the power to compel the attendance of
13 witnesses and to require the production of records and documentary or other tangible evidence.

14 b. The board may cause subpoenas and subpoenas duces tecum to be issued upon its own
15 motion, or upon the application of any party to any hearing; but subpoenas will not be issued
16 upon application unless such application is in writing and sets forth the persons, records, books,
17 papers or other documents to be produced and a general statement as to the purpose.

18
19 Rule 6. Appearances and Practice Before the Board of Appeals.

20 a. Any individual who is a party to a proceeding before the board may appear in his own
21 behalf; and member of a partnership may appear as representing said partnership if it is a party; a
22 duly authorized officer of a corporation, trust or an association may appear as representing said

body, if it is a party to the proceedings; and a duly authorized officer or an employee of any political subdivision or body or department may represent the same before the board.

b. Any party may be represented in any proceeding by an attorney-at-law admitted to practice before the Court of Appeals of Maryland.

c. No person shall appear before the board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in sections a. and b. above.

d. When an attorney wishes to appear in any proceeding in a representative capacity which involves a hearing before the county board of appeals, he shall file with the board a written notice of such appearance, which shall state his name, address, telephone number, and the names and addresses of the persons on whose behalf he has entered his appearance.

Rule 7. Evidence.

a. Any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may be received; but the board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence, and the number of witnesses may be limited if it appears that their testimony may be merely cumulative.

1 b. All evidence, including records and documents in the possession of the agency, of
2 which it desires to avail itself, shall be offered and made part of the record. Documentary
3 evidence may be received in the form of copies or excerpts, or by incorporation by reference.

4 c. Prepared statements may be read by participants in the hearing if they include factual
5 material and do not include argument, provided copies of said statements have been delivered to
6 the board and opposing counsel at least five (5) days prior to hearing, and their admissibility
7 ruled upon, the same as if the factual content were presented in the usual manner. "Prepared
8 statements" within the meaning of this section shall not include factual reports, written
9 summations, letters, expert opinions of professional expert witnesses and other such similar
10 documents.

11 d. Except as may otherwise be provided by statute or regulations, the proponent of action
12 to be taken by the board shall have the burden of proof.

13 e. Any official record or entries therein when admissible for any purpose may be
14 evidenced by an official publication thereof or by a copy attested by the officer having legal
15 custody of the record, and the appearance of the officer will not be required unless demanded by
16 a party to the case and for good cause shown to the board. This rule does not prevent any party
17 from summoning any proper witness to attend any hearing before the board.

18 f. Records of other proceedings before the board may be offered in evidence by the
19 production of the files containing said records of such other proceedings.

20 g. In such cases as the board may determine, it may by order require that the direct
21 testimony of all "expert" witnesses be submitted in writing, accompanied by copies of all
22 exhibits to which reference is therein made, unless such are of a voluminous nature or within the
23 files of, or readily available to, the board of appeals, in which case adequate reference shall be

1 made thereto, which testimony shall be submitted by the parties required so to do and under the
2 time and service provisions as contained in said order. Thereafter, said “expert” witnesses shall
3 be personally present at the hearing for affirmation of their written statement and exhibits
4 previously submitted and for cross-examination.

5
6 Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic
7 or improvement associations.

8 a. Before any person shall testify on behalf of any civic or improvement association, it
9 shall be shown that the person has accurate knowledge of the number of members in the
10 association and geographical limits of the association.

11 b. Before any such person shall testify it shall also be shown that the person is authorized
12 to speak for and present the views of the civic or improvement association.

13 c. Such authorization shall consist of presenting at the hearing or prior thereto a
14 resolution in duplicate duly adopted by the association at its annual meeting, first meeting of
15 each year, or a special meeting of the association, signed by the president and attested by the
16 secretary, providing that the responsibility for review and action on all zoning matters be placed
17 in its board of directors or a duly elected zoning committee.

18 d. Before any such authorized person shall testify, it shall be shown by written affidavit
19 in duplicate, signed by the president of the association and attested by the secretary, that the
20 person is currently a duly elected member of the board of directors or zoning committee of that
21 association, or is a duly designated employee or an authorized representative of that association,
22 or is an attorney-at-law appointed to represent the board of directors or zoning committee.

1 e. Before any such authorized person shall testify, a resolution stating the position of the
2 association as adopted by the board of directors or zoning committee, signed by the president and
3 attested by the secretary, shall also be produced in duplicate at the hearing.

4
5 Rule 9. Special rule pertaining to original petitions for reclassification, special exception and/or
6 variance.

7 a. Application of Rule: This rule shall apply only to petitions for reclassification, special
8 exception and/or variance filed with the board pursuant to Article 32, Title 3, Subtitle 5 of the
9 Baltimore County Code, 2003, as now in force and effect or as hereafter amended. It applies to
10 the filing, processing, advertising and scheduling of hearings on such petitions and is
11 supplemental to such other rules of the board and Article 32, Title 3, Subtitle 5 of the Baltimore
12 County Code, 2003, as now in force and effect or as are hereafter amended or adopted. Once
13 filed and scheduled for hearing under the provisions of this special rule, such petitions shall be
14 heard and decided in accordance with all other rules of the board.

15 b. Definition of Petition. As used herein the term “petition” shall mean:

16 1. Request for reclassifications of property, including all material filed with said
17 request.

18 2. Request for special exceptions and/or variances, the granting of which are
19 dependent upon a reclassification of the property in question, including all material filed
20 therewith.

21 c. Filing.

1 1. Petitions may be filed in the office of the board of appeals throughout the year,
2 except during the period from April 16, 1979, through October 15, 1980, and all like periods
3 beginning on April 16, 1983, and every fourth year thereafter.

4 2. Petitions accepted for filing, no later than forty-five (45) days prior to April 16
5 will be processed during the April—October cycle, and petitions accepted for filing no later than
6 forty-five (45) days prior to October 16 will be processed during the October—April cycle.

7 3. Notwithstanding paragraphs 1. and 2. above, petitions exempted from the
8 regular cyclical procedure due to public interest or because of emergency may be filed and
9 processed at any time.

10 d. Processing and File Maintenance Procedure.

11 1. Upon receipt of a petition, the board shall establish a file and promptly
12 transmit it to the zoning commissioner's office for processing and preparation of a written report.
13 Said report shall be prepared by the zoning staff; shall reflect the comments of the zoning plans
14 advisory committee; and shall indicate the petition's compliance, with regard to the zoning laws
15 and regulations, and each reviewing agency's adopted standards or policies.

16 2. Petitions may be amended prior to the hearing only if said amendment takes
17 place prior to the first public advertisement of the petition.

18 3. The zoning staff shall maintain possession of said file throughout the zoning
19 review and report processing procedure.

20 4. Upon completion of the zoning review and report process, including
21 distribution of copies of pertinent material to the planning staff, and the necessary advertising
22 and posting, the file, complete with the zoning report and planning board recommendations, shall
23 be returned to the board for the hearing.

1 5. The board shall maintain possession of the file until such time as the case has
2 been completed with all pending appeals satisfied. Thereafter, said file shall be returned to the
3 zoning office for microfilming and retention on behalf of the board.

4 e. Scheduling, Posting and Advertising for Public Hearings.

5 1. The zoning staff shall schedule and otherwise prepare the necessary newspaper
6 advertisements and arrange for the posting of property in accordance with Article 32, Title 3,
7 Subtitle 5 of the Baltimore County Code, 2003. However, all hearing dates and times shall be
8 established by the board.

9 2. All postponed hearings shall be readvertised and the properties posted in
10 accordance with the requirements for final advertising and posting pursuant to Article 32, Title 3,
11 Subtitle 5 of the Baltimore County Code, 2003. The cost of such advertising and posting shall be
12 borne by the party requesting the postponement.

13 f. Guide for Preparation of Reclassification Petitions. Each petition request shall be filed
14 on forms provided by the county board of appeals. As a matter of convenience, the board will
15 make available a guide containing information for use in the preparation of petitions for
16 reclassification.

17
18 Rule 10. Motion for Reconsideration.

19 A party may file a motion for reconsideration of an order of the board of appeals. The
20 motion shall be filed within thirty (30) days after the date of the original order. The motion shall
21 state with specificity the grounds and reasons for the motion. The filing of a motion for
22 reconsideration shall stay all further proceedings in the matter, including the time limits and
23 deadlines for the filing of a petition for judicial review. After public deliberation and in its

1 discretion, the board may convene a hearing to receive testimony or argument or both on the
2 motion. Each party participating in the hearing on the motion shall be limited to testimony or
3 argument only with respect to the motion; the board may not receive additional testimony with
4 respect to the substantive matter of the case. Within 30 days after the date of the board's ruling
5 on the motion for reconsideration, any party aggrieved by the decision shall file a petition for
6 judicial review. The petition for judicial review shall request judicial review of the board's
7 original order, the board's ruling on the motion for reconsideration or both.

8 9 Rule 11. Revisory Power of the Board.

10 Within thirty (30) days after the entry of an order, the board shall have revisory power
11 and control over the order in the event of fraud, mistake or irregularity.

12 13 Rule 12. Amendments of Rules.

14 These rules may be amended from time to time in accordance with section 603 of the
15 Baltimore County Charter.]

16 17 RULE 1. GENERAL.

18 A. THE BALTIMORE COUNTY BOARD OF APPEALS ("BOARD" OR "BOARD
19 OF APPEALS") SHALL SELECT ONE OF ITS MEMBERS TO SERVE AS THE BOARD
20 CHAIR AT THE PLEASURE OF THE BOARD. THE BOARD CHAIR SHALL PRESIDE AT
21 ALL HEARINGS OF THE BOARD OF APPEALS, UNLESS THE BOARD CHAIR
22 DESIGNATES ANOTHER MEMBER OF THE BOARD TO SIT IN THE BOARD CHAIR'S
23 PLACE AS PANEL CHAIR.

1 B. HEARINGS OF THE BALTIMORE COUNTY BOARD OF APPEALS SHALL BE
2 HELD PERIODICALLY AS DETERMINED BY THE BOARD CHAIR OR AS REQUIRED
3 BY STATUTE.

4 C. THREE MEMBERS OF THE BOARD, SHALL CONSTITUTE A BOARD PANEL.
5 DURING THE COURSE OF A HEARING, IF ANY MEMBER OF THE BOARD PANEL IS
6 UNABLE TO CONTINUE TO SERVE ON THE BOARD PANEL, ANOTHER MEMBER
7 SHALL FILL THE VACANCY. IN THE CASE OF A REMAND, IF ANY MEMBER OF THE
8 BOARD PANEL IS UNABLE TO SERVE, ANOTHER MEMBER SHALL FILL THE
9 VACANCY. A MAJORITY VOTE OF TWO OF THE THREE SITTING MEMBERS OF THE
10 BOARD PANEL IS NECESSARY TO RENDER A DECISION.

11 D. PURSUANT TO § 3-12-104 OF THE BALTIMORE COUNTY CODE, THE
12 TERMS ZONING COMMISSIONER, DEPUTY ZONING COMMISSIONER AND
13 ADMINISTRATIVE LAW JUDGE ARE INTERCHANGEABLE.

14 E. 1. ALL APPEALS TO THE BOARD FROM DECISIONS OF THE ZONING
15 COMMISSIONER OR DEPUTY ZONING COMMISSIONER SHALL BE IN
16 CONFORMANCE WITH THE RULES OF THE ZONING COMMISSIONER OF
17 BALTIMORE COUNTY WITH RESPECT TO THE FORM OF APPEAL, AND THE FILING
18 FEES SHALL BE AS ESTABLISHED EITHER BY SAID RULES OF THE ZONING
19 COMMISSIONER OR BY THE BALTIMORE COUNTY ZONING REGULATIONS.

20 2. ALL OTHER APPEALS SHALL BE IN CONFORMANCE WITH THE
21 BALTIMORE COUNTY CODE AND CHARTER.

22 F. COMPUTATION OF TIME SHALL BE IN ACCORDANCE WITH RULE 1-203
23 OF THE MARYLAND RULES.

1
2 RULE 2. NOTICE.

3 A. NO HEARING SHALL BE CONDUCTED WITHOUT AT LEAST TEN DAYS'
4 NOTICE TO ALL PARTIES OF RECORD AND/OR THEIR COUNSEL OF RECORD,
5 UNLESS OTHERWISE AGREED TO BY ALL SUCH PARTIES AND/OR THEIR COUNSEL
6 OF RECORD.

7 B. THE BOARD IN ITS DISCRETION MAY GRANT A CONTINUANCE OR
8 POSTPONEMENT ON ITS OWN INITIATIVE OR ON WRITTEN REQUEST OF A PARTY
9 OF RECORD OR THE REQUESTING PARTY'S COUNSEL SETTING FORTH GOOD AND
10 SUFFICIENT REASONS FOR THE REQUESTED POSTPONEMENT. A WRITTEN
11 REQUEST SHALL BE ADDRESSED TO THE BOARD AND SHALL CERTIFY THAT THE
12 REQUEST WAS SENT TO ALL PARTIES AND COUNSEL ENTITLED TO RECEIVE
13 NOTICE.

14 C. A POSTPONEMENT SHALL NOT BE GRANTED WITHIN FIFTEEN DAYS
15 PRIOR TO THE HEARING DATE EXCEPT IN EXTRAORDINARY CIRCUMSTANCES
16 AND FOR A REASON SATISFACTORY TO THE BOARD, GIVEN BY THE PARTY
17 REQUESTING SUCH POSTPONEMENT INDICATING THAT THE CIRCUMSTANCES
18 REQUIRING THE POSTPONEMENT ARE OF AN UNUSUAL AND EXTRAORDINARY
19 NATURE.

20 D. ALL RECORDS AND DOCKETS OF THE BOARD SHALL BE OPEN TO THE
21 PUBLIC DURING NORMAL BUSINESS HOURS SUBJECT TO LIMITATION BY THE
22 MARYLAND PUBLIC INFORMATION ACT.

1 E. IN APPEALS FROM DECISIONS OF THE ZONING COMMISSIONER, FORMAL
2 NOTICE OF HEARINGS, CONTINUANCES AND DECISIONS OF THE BOARD WILL BE
3 PROVIDED ONLY TO THOSE PERSONS ENTITLED TO RECEIVE SAME IN
4 ACCORDANCE WITH § 500.11 OF THE BALTIMORE COUNTY ZONING
5 REGULATIONS.

6 F. NOTICE OF HEARINGS AND DELIBERATIONS BEFORE THE BOARD MAY
7 BE MAILED, E-MAILED, AND/OR POSTED ON THE BOARD'S WEBSITE.

8
9 RULE 3. APPEALS.

10 A. NO APPEAL SHALL BE ENTERTAINED BY THE BOARD OF APPEALS
11 UNLESS THE NOTICE OF APPEAL STATES THE NAMES, ADDRESSES, TELEPHONE
12 NUMBERS, AND E-MAIL ADDRESSES OF THE PERSONS NOTING SUCH APPEAL.

13 B. AN APPEAL OR PETITION MAY BE WITHDRAWN OR DISMISSED AT ANY
14 TIME PRIOR TO THE CONCLUSION OF THE HEARING ON THE APPEAL OR
15 PETITION. THE REQUEST SHALL BE SUBMITTED IN WRITING OR UPON ORAL
16 REQUEST IN CIRCUMSTANCES THAT PRECLUDE A WRITTEN REQUEST AND
17 SHOULD INCLUDE WHETHER THE DISMISSAL IS REQUESTED WITH OR WITHOUT
18 PREJUDICE. THE BOARD HAS THE DISCRETION TO DETERMINE IF A MATTER
19 SHOULD BE DISMISSED WITH OR WITHOUT PREJUDICE. A PETITION THAT IS
20 DISMISSED WITH PREJUDICE MAY NOT BE RESUBMITTED FOR A PERIOD OF
21 EIGHTEEN (18) MONTHS AFTER THE DISMISSAL.

1 C. ALL APPEALS TO THE BOARD OF APPEALS SHALL BE MADE WITHIN
2 THIRTY DAYS FROM THE DATE OF THE FINAL ACTION APPEALED, UNLESS
3 OTHERWISE PROVIDED BY THE COUNTY CODE.
4

5 RULE 4. CONDUCT OF HEARINGS.

6 A. IN-PERSON HEARINGS.

7 1. ALL HEARINGS HELD BY THE BOARD OF APPEALS SHALL BE OPEN
8 TO THE PUBLIC. NO HEARING SHALL BE PRIVATE, EVEN IF ALL PARTIES AGREE.
9 THE BOARD OF APPEALS SHALL HAVE THE POWER TO ADMINISTER OATHS, AND
10 ALL WITNESSES SHALL TESTIFY UNDER OATH.

11 2. THE BOARD CHAIR, OR PANEL CHAIR IF DESIGNATED, SHALL
12 REGULATE THE COURSE OF THE HEARING AND SHALL RULE UPON PROCEDURAL
13 MATTERS, APPLICATIONS, MODIFICATIONS AND OBJECTIONS MADE DURING THE
14 COURSE OF THE HEARING, SUBJECT TO THE CONCURRENCE OF A MAJORITY OF
15 THE BOARD CONDUCTING THE HEARING.

16 3. A HEARING MAY BE ADJOURNED FROM TIME TO TIME FOR GOOD
17 CAUSE SHOWN AND IF THE TIME AND PLACE OF RECONVENING THE HEARING IS
18 ANNOUNCED AT ADJOURNMENT, NO FURTHER NOTICE OF RECONVENING SHALL
19 BE REQUIRED. IF THE TIME AND PLACE OF RECONVENING IS NOT ANNOUNCED
20 AT ADJOURNMENT, NOTICE OF TIME AND PLACE OF RECONVENING SHALL BE
21 GIVEN AS REQUIRED IN SUBSECTION A. OF RULE 2.

22 4. DEPOSITIONS AND DISCOVERY SHALL NOT BE ALLOWED UNLESS
23 BY AGREEMENT OF ALL PARTIES OR THEIR COUNSEL OF RECORD.

1 5. THE BOARD ENCOURAGES THE PARTIES TO COME TO
2 STIPULATIONS OR AGREEMENTS ON DOCUMENTARY EVIDENCE.

3 B. REMOTE PROCEEDINGS.

4 1. REMOTE ELECTRONIC PROCEEDINGS (“REMOTE HEARINGS”,
5 “VIRTUAL HEARINGS”, “REMOTE PUBLIC DELIBERATIONS”, OR “VIRTUAL PUBLIC
6 DELIBERATIONS”) MAY BE CONDUCTED AT THE DISCRETION OF THE BOARD
7 CHAIR OR DESIGNATED PANEL CHAIR.

8 2. ALL REMOTE HEARINGS AND REMOTE PUBLIC DELIBERATIONS
9 WILL BE OPEN TO THE PUBLIC.

10 3. THE PREFERRED PLATFORM USED BY THE BOARD OF APPEALS TO
11 CONDUCT REMOTE HEARINGS IS WEBEX, ALTHOUGH OTHER PLATFORMS MAY
12 BE USED BY THE BOARD. ONCE NOTICE IS RECEIVED OF THE TYPE OF HEARING
13 AND PLATFORM BEING USED, ANYONE WISHING TO ACCESS THE HEARING,
14 SHOULD DOWNLOAD ANY NECESSARY APPLICATION TO ANY ELECTRONIC
15 DEVICE BEFORE THE HEARING TO ENSURE THAT DEVICE IS WORKING AND
16 THERE ARE NO ISSUES, (E.G., CAMERA WORKING, SOUND CHECK, OR SUFFICIENT
17 INTERNET CONNECTIVITY.).

18 4. A LINK TO THE REMOTE HEARING OR DELIBERATION WILL BE
19 EMAILED TO THE ATTORNEYS OF RECORD AND POSTED ON THE BOARD OF
20 APPEALS WEBSITE. INFORMATION FOR TELEPHONIC PARTICIPATION WILL ALSO
21 BE POSTED ON THE BOARD OF APPEALS WEBSITE. THE BOARD OF APPEALS
22 OFFICE SHOULD BE CONTACTED FOR MORE INFORMATION REGARDING THE
23 PROCESS FOR PARTICIPATING IN A REMOTE HEARING BEFORE THE BOARD.

1 5. ALL REMOTE HEARINGS AND REMOTE PUBLIC DELIBERATIONS
2 WILL BE RECORDED BY THE BOARD OF APPEALS TO SERVE AS THE OFFICIAL
3 RECORDING.

4 6. EXCEPT AS OTHERWISE DIRECTED BY THE BOARD, ALL REMOTE
5 HEARINGS WILL BE CONDUCTED IN ACCORDANCE WITH THE SAME STANDARDS
6 AS HEARINGS CONDUCTED IN PERSON.

7 7. IF A REMOTE HEARING IS DISRUPTED DUE TO AUDIO OR VIDEO
8 TECHNICAL DIFFICULTIES, THE BOARD MAY DELAY, POSTPONE, OR REQUIRE
9 ATTENDANCE BY TELEPHONE OR IN-PERSON.

10 8. IF A PARTY IS NOT ABLE TO PARTICIPATE BY REMOTE MEANS,
11 THE PARTY SHOULD CONTACT THE BOARD OF APPEALS OFFICE PROMPTLY.

12 9. ALL PARTICIPANTS ARE EXPECTED TO CONDUCT THEMSELVES
13 AS IF THEY WERE IN THE COURTROOM. ATTORNEYS ARE EXPECTED TO ABIDE
14 BY THE MARYLAND ATTORNEY'S PROFESSIONAL RULES OF CONDUCT AND
15 MAINTAIN PROFESSIONALISM IN BOTH THEIR APPEARANCE AND CONDUCT.

16
17 RULE 5. APPEARANCES AND PRACTICE BEFORE THE BOARD OF APPEALS.

18 A. ANY INDIVIDUAL WHO IS A PARTY TO A PROCEEDING BEFORE THE
19 BOARD MAY APPEAR ON THEIR OWN BEHALF; AND A MEMBER OF A
20 PARTNERSHIP MAY APPEAR AS REPRESENTING SAID PARTNERSHIP IF IT IS A
21 PARTY; A DULY AUTHORIZED OFFICER OF A CORPORATION, TRUST OR AN
22 ASSOCIATION MAY APPEAR AS REPRESENTING SAID ENTITY, IF IT IS A PARTY TO
23 THE PROCEEDINGS; AND A DULY AUTHORIZED OFFICER OR AN EMPLOYEE OF

1 ANY POLITICAL SUBDIVISION OR BODY OR DEPARTMENT MAY REPRESENT THE
2 SAME BEFORE THE BOARD.

3 B. ANY PARTY MAY BE REPRESENTED IN ANY BOARD PROCEEDING BY AN
4 ATTORNEY-AT-LAW ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS
5 OF MARYLAND.

6 C. NO PERSON SHALL APPEAR BEFORE THE BOARD IN A REPRESENTATIVE
7 CAPACITY, ENGAGE IN PRACTICE, EXAMINE WITNESSES OR OTHERWISE ACT IN
8 A REPRESENTATIVE CAPACITY EXCEPT AS PROVIDED IN SUBSECTIONS A. AND B.
9 OF THIS RULE.

10 D. WHEN AN ATTORNEY WISHES TO APPEAR IN ANY PROCEEDING IN A
11 REPRESENTATIVE CAPACITY WHICH INVOLVES A HEARING BEFORE THE BOARD,
12 THE ATTORNEY SHALL FILE WITH THE BOARD A WRITTEN NOTICE OF SUCH
13 APPEARANCE, WHICH SHALL STATE THE ATTORNEY'S NAME, ADDRESS,
14 TELEPHONE NUMBER, EMAIL ADDRESS AND THE NAMES, ADDRESSES,
15 TELEPHONE NUMBERS AND EMAIL ADDRESSES OF THE PERSONS ON WHOSE
16 BEHALF THE ATTORNEY HAS ENTERED AN APPEARANCE.

17
18 RULE 6. EVIDENCE.

19 A. ANY EVIDENCE WHICH WOULD BE ADMISSIBLE UNDER THE GENERAL
20 RULES OF EVIDENCE APPLICABLE IN JUDICIAL PROCEEDINGS IN THE STATE OF
21 MARYLAND SHALL BE ADMISSIBLE IN HEARINGS BEFORE THE COUNTY BOARD
22 OF APPEALS. THE BOARD HAS DISCRETION TO APPLY THE MARYLAND RULES OF
23 EVIDENCE.

1 B. ALL EVIDENCE, INCLUDING RECORDS AND DOCUMENTS IN THE
2 POSSESSION OF THE ORIGINATING AGENCY, SHALL BE TRANSFERRED TO THE
3 BOARD UPON APPEAL AND MADE PART OF THE RECORD IN THE TIMEFRAME
4 PROVIDED BY STATUTE, IF APPLICABLE.

5 C. 1. TO THE EXTENT POSSIBLE, EXHIBITS SHOULD BE PRE-FILED AT
6 LEAST TWO BUSINESS DAYS PRIOR TO THE REMOTE HEARING. TO PROPERLY
7 PREPARE FOR REMOTE HEARINGS AND TO ADDRESS ANY ISSUES WITH THE
8 EXHIBITS PRIOR TO THE HEARING, IT IS CRITICAL THAT THE BOARD RECEIVE
9 THE EXHIBITS AS TIMELY AS POSSIBLE.

10 2. TO PRE-FILE PROPOSED EXHIBITS WITH THE BOARD, A PARTY
11 MAY:

12 I. EMAIL ELECTRONIC COPIES TO
13 APPEALSBOARD@BALTIMORECOUNTYMD.GOV; OR

14 II. UPON REQUEST AND BY AGREEMENT OF THE BOARD:

15 A. UPLOAD THE EXHIBITS TO A DESIGNATED INTERNET
16 LOCATION;

17 B. DELIVER BY U.S. MAIL; OR

18 C. HAND-DELIVER TO A PHYSICAL DROP BOX OR THE
19 BOARD OF APPEALS OFFICE.

20 3. THE BOARD MAY ADMIT EXHIBITS NOT SUBMITTED PRIOR TO
21 THE HEARING TO BE USED AT THE HEARING.

22 4. UPON CONCLUSION OF THE HEARING, THE BOARD'S CUSTODIAN
23 OF RECORDS SHALL NOT BE OBLIGATED TO MAINTAIN ANY PROPOSED EXHIBITS

1 THAT WERE NOT MADE PART OF THE RECORD AND MAY DELETE THEM FROM AN
2 E-MAIL INBOX, VIRTUAL DROP BOX OR OTHER VIRTUAL STORAGE FOLDER AT
3 THE BOARD CUSTODIAN OF RECORDS' CONVENIENCE.

4 D. PREPARED STATEMENTS MAY BE READ BY PARTICIPANTS IN THE
5 HEARING IF THEY INCLUDE FACTUAL MATERIAL AND DO NOT INCLUDE
6 ARGUMENT, PROVIDED COPIES OF SAID STATEMENTS HAVE BEEN DELIVERED
7 TO THE BOARD AND OPPOSING COUNSEL AT LEAST FIVE DAYS PRIOR TO THE
8 HEARING, AND THEIR ADMISSIBILITY RULED UPON, THE SAME AS IF THE
9 FACTUAL CONTENT WERE PRESENTED. "PREPARED STATEMENTS" WITHIN THE
10 MEANING OF THIS THIS RULE SHALL NOT INCLUDE FACTUAL REPORTS, WRITTEN
11 SUMMATIONS, LETTERS, EXPERT OPINIONS OF PROFESSIONAL EXPERT
12 WITNESSES AND OTHER SUCH SIMILAR DOCUMENTS.

13 E. EXCEPT AS MAY OTHERWISE BE PROVIDED BY STATUTE OR
14 REGULATIONS, THE MOVING PARTY SHALL HAVE THE BURDEN OF PROOF.

15 F. ANY COUNTY OFFICIAL RECORD OR ENTRIES THEREIN WHEN
16 ADMISSIBLE FOR ANY PURPOSE MAY BE EVIDENCED BY AN OFFICIAL
17 PUBLICATION THEREOF OR BY A COPY ATTESTED BY THE COUNTY OFFICER
18 HAVING LEGAL CUSTODY OF THE RECORD, AND THE APPEARANCE OF THE
19 OFFICER WILL NOT BE REQUIRED UNLESS DEMANDED BY A PARTY TO THE CASE
20 AND FOR GOOD CAUSE SHOWN TO THE BOARD. THIS RULE DOES NOT PREVENT
21 ANY PARTY FROM SUMMONING ANY PROPER WITNESS TO ATTEND ANY
22 HEARING BEFORE THE BOARD OR PRESENTING EVIDENCE WITH

1 CIRCUMSTANCES INDICATING ~~AUTHENTIC~~ AUTHENTICITY AND ~~RELIABLE~~
2 RELIABILITY.

3 G. THE BOARD ON ITS OWN INITIATIVE, OR AT THE REQUEST OF A PARTY,
4 MAY REQUIRE THAT THE DIRECT TESTIMONY OF ALL “EXPERT” WITNESSES BE
5 SUBMITTED IN WRITING WITH COPIES OF ALL EXHIBITS REFERRED TO THEREIN.
6 THEREAFTER, THE “EXPERT” WITNESSES SHALL BE PERSONALLY PRESENT AT
7 THE HEARING FOR AFFIRMATION OF THEIR WRITTEN TESTIMONY AND EXHIBITS
8 PREVIOUSLY SUBMITTED AND FOR CROSS-EXAMINATION.

9 H. ON THE DAY OF A REMOTE HEARING, THE ATTORNEYS, MOVING PARTY
10 AND THEIR WITNESSES SHALL APPEAR AT THE APPOINTED TIME. FAILURE TO
11 APPEAR MAY RESULT IN DISMISSAL.

12 I. WHERE A WITNESS ATTENDS THE REMOTE HEARING, THE WITNESS
13 WILL BE SWORN OR AFFIRMED BY THE BOARD PRIOR TO THE COMMENCEMENT
14 OF THEIR TESTIMONY. ALL ATTENDEES SHALL CONDUCT THEMSELVES AS IF IN
15 AN IN-PERSON QUASI-JUDICIAL HEARING.

16
17 RULE 7. SUBPOENAS.

18 A. THE BOARD OF APPEALS SHALL HAVE THE POWER TO COMPEL THE
19 ATTENDANCE OF WITNESSES AND TO REQUIRE THE PRODUCTION OF RECORDS
20 AND DOCUMENTARY OR OTHER TANGIBLE EVIDENCE.

21 B. THE BOARD MAY CAUSE SUBPOENAS AND SUBPOENAS DUCES TECUM
22 TO BE ISSUED UPON ITS OWN MOTION, OR UPON THE WRITTEN APPLICATION OF
23 ANY PARTY TO ANY HEARING; BUT SUBPOENAS WILL NOT BE ISSUED UPON

1 APPLICATION UNLESS SUCH WRITTEN IS IN WRITING AND SETS FORTH THE
2 PERSONS, RECORDS, BOOKS, PAPERS OR OTHER DOCUMENTS TO BE PRODUCED
3 AND A GENERAL STATEMENT OF THE PURPOSE.
4

5 RULE 8. SPECIAL RULE PERTAINING TO PERSONS APPEARING BEFORE THE
6 BOARD AS REPRESENTATIVES OF CIVIC OR IMPROVEMENT ASSOCIATIONS.

7 A. BEFORE ANY PERSON SHALL TESTIFY ON BEHALF OF ANY CIVIC OR
8 IMPROVEMENT ASSOCIATION, THAT PERSON SHALL PROVIDE TO THE BOARD
9 THE FOLLOWING DOCUMENTS:

10 1. A RESOLUTION DULY ADOPTED BY THE ASSOCIATION AT ITS
11 REGULARLY SCHEDULED OR SPECIAL MEETING OF THE ASSOCIATION, SIGNED
12 BY THE PRESIDENT AND ATTESTED BY THE SECRETARY, PROVIDING THAT THE
13 RESPONSIBILITY FOR REVIEW AND ACTION ON ALL ZONING MATTERS BE
14 PLACED IN ITS BOARD OF DIRECTORS OR A DULY ELECTED ZONING COMMITTEE.

15 2. A RESOLUTION STATING THE POSITION OF THE ASSOCIATION AS
16 ADOPTED BY THE BOARD OF DIRECTORS OR ZONING COMMITTEE, SIGNED BY
17 THE PRESIDENT AND ATTESTED BY THE SECRETARY, SHALL ALSO BE PRODUCED
18 IN DUPLICATE AT THE HEARING.

19 3. WRITTEN AFFIDAVIT SIGNED BY THE PRESIDENT OF THE
20 ASSOCIATION AND ATTESTED BY THE SECRETARY, THAT SUCH PERSON IS
21 CURRENTLY A DULY ELECTED MEMBER OF THE BOARD OF DIRECTORS OR
22 ZONING COMMITTEE OF THAT ASSOCIATION, OR IS AN ATTORNEY APPOINTED
23 TO REPRESENT THE BOARD OF DIRECTORS OR ZONING COMMITTEE.

1 B. BEFORE ANY PERSON SHALL TESTIFY IT SHALL BE SHOWN THAT THE
2 PERSON HAS ACCURATE KNOWLEDGE OF THE GEOGRAPHIC LIMITS OF THE
3 ASSOCIATION AND THAT THE PROPERTY AT ISSUE IS LOCATED WITHIN THE
4 GEOGRAPHICAL LIMITS OF THE ASSOCIATION.

5
6 RULE 9. OPEN MEETINGS.

7 A. ALL HEARINGS AND DELIBERATIONS OF THE BOARD OF APPEALS
8 SHALL BE OPEN TO THE PUBLIC IN ACCORDANCE WITH THE OPEN MEETINGS
9 ACT OF MARYLAND.

10 B. EXCEPT IN INSTANCES WHEN THE BOARD OF APPEALS EXPRESSLY
11 INVITES PUBLIC TESTIMONY, QUESTIONS, COMMENTS OR OTHER PUBLIC
12 PARTICIPATION, OR WHEN PUBLIC PARTICIPATION IS OTHERWISE AUTHORIZED
13 BY LAW, NO MEMBER OF THE PUBLIC ATTENDING A HEARING OR DELIBERATION
14 MAY PARTICIPATE IN THE HEARING OR DELIBERATION.

15
16 RULE 10. DISRUPTIVE CONDUCT.

17 A. A PERSON ATTENDING A HEARING OR DELIBERATION OF THE BOARD
18 OF APPEALS MAY NOT ENGAGE IN ANY CONDUCT, INCLUDING VISUAL
19 DEMONSTRATIONS SUCH AS WAVING OF PLACARDS, SIGNS, OR BANNERS, THAT
20 DISRUPTS THE HEARING OR DELIBERATION OR THAT INTERFERES WITH THE
21 RIGHT OF MEMBERS OF THE PUBLIC TO ATTEND AND OBSERVE THE HEARING OR
22 DELIBERATION.

1 B. A PERSON ATTENDING OR ATTORNEY PARTICIPATING IN A HEARING OR
2 DELIBERATION OF THE BOARD OF APPEALS MAY NOT ENGAGE IN ANY CONDUCT
3 THAT:

4 1. DISRUPTS THE HEARING, EVIDENCE PRESENTATION, A WITNESS'
5 TESTIMONY, ATTORNEY ARGUMENT, OR ANY OTHER MATTER;

6 2. ATTEMPTS TO INFLUENCE A WITNESS DURING TESTIMONY OR
7 ATTORNEY DURING ARGUMENT; OR

8 3. ATTEMPTS TO COMMUNICATE WITH ANY BOARD MEMBER, A
9 PARTY, AND/OR A TESTIFYING WITNESS BY ANY DISRUPTIVE GESTURE OR
10 VOCAL OR OTHER ACTION INDICATING APPROVAL, DISAPPROVAL, AGREEMENT,
11 DISAGREEMENT, SUPPORT OR OPPOSITION.

12 C. THE BOARD CHAIR OR DESIGNATED PANEL CHAIR HEARING THE CASE
13 MAY ORDER ANY PERSON WHO ENGAGES IN CONDUCT PROHIBITED BY
14 SUBSECTION A. AND/OR SUBSECTION B. OF THIS RULE OR WHO VIOLATES ANY
15 OTHER REGULATION CONCERNING THE CONDUCT OF THE HEARING OR
16 DELIBERATION TO BE REMOVED FROM THE HEARING OR DELIBERATION AND
17 MAY REQUEST POLICE ASSISTANCE AND/OR SECURITY TO RESTORE ORDER. THE
18 BOARD CHAIR OR DESIGNATED PANEL CHAIR MAY RECESS THE SESSION WHILE
19 ORDER IS RESTORED. THE BOARD, IN ITS DISCRETION, MAY ADJOURN THE
20 HEARING FOR THE DAY AND RESCHEDULE THE REMAINDER OF THE HEARING.

21
22 RULE 11. RECORDING.

1 A. ALL HEARINGS AND DELIBERATIONS ARE RECORDED AS A MATTER OF
2 BOARD OF APPEALS AND COUNTY POLICY. RECORDINGS OF THE BOARD OF
3 APPEALS HEARINGS AND PUBLIC DELIBERATIONS WILL BE AVAILABLE UPON
4 REQUEST FOR A FEE IN ACCORDANCE WITH COUNTY POLICY.

5 B. A RECORDING OF AN OPEN SESSION MADE BY A MEMBER OF THE
6 PUBLIC, OR A TRANSCRIPT DERIVED FROM SUCH A RECORDING, SHALL NOT BE
7 DEEMED A PART OF THE RECORD OF ANY PROCEEDING OF THE BOARD OF
8 APPEALS.

9
10 RULE 12. MOTION FOR RECONSIDERATION.

11 A. A PARTY MAY FILE A MOTION FOR RECONSIDERATION OF AN ORDER
12 OF THE BOARD OF APPEALS. THE MOTION SHALL BE FILED WITHIN THIRTY
13 DAYS AFTER THE DATE OF THE ORIGINAL ORDER. THE MOTION SHALL STATE
14 WITH SPECIFICITY THE GROUNDS AND REASONS FOR THE MOTION, INCLUDING,
15 BUT NOT LIMITED TO: NEWLY DISCOVERED EVIDENCE; CHANGE IN LAW;
16 AND/OR FRAUD, MISTAKE OR IRREGULARITY. THE FILING OF A MOTION FOR
17 RECONSIDERATION SHALL STAY ALL FURTHER PROCEEDINGS IN THE MATTER,
18 INCLUDING THE TIME LIMITS AND DEADLINES FOR THE FILING OF A PETITION
19 FOR JUDICIAL REVIEW.

20 B. THE BOARD OF APPEALS SHALL HOLD A PUBLIC DELIBERATION ON THE
21 MOTION FOR RECONSIDERATION AND ANY RESPONSIVE PLEADINGS.

22 C. AFTER PUBLIC DELIBERATION AND IN ITS DISCRETION, THE BOARD
23 MAY CONVENE A HEARING TO RECEIVE TESTIMONY, EVIDENCE, AND/OR

1 ARGUMENT ON THE MOTION. EACH PARTY PARTICIPATING IN THE HEARING ON
2 THE MOTION SHALL BE LIMITED TO TESTIMONY OR ARGUMENT ONLY WITH
3 RESPECT TO THE MOTION; THE BOARD MAY NOT RECEIVE ADDITIONAL
4 TESTIMONY WITH RESPECT TO THE SUBSTANTIVE MATTER OF THE CASE.

5
6 RULE 13. REVISORY POWER OF THE BOARD.

7 WITHIN THIRTY DAYS AFTER THE ENTRY OF AN ORDER, THE BOARD
8 SHALL HAVE REVISORY POWER AND CONTROL OVER THE ORDER IN THE EVENT
9 OF FRAUD, MISTAKE OR IRREGULARITY.

10
11 RULE 14. AMENDMENTS OF RULES.

12 THESE RULES MAY BE AMENDED FROM TIME TO TIME IN ACCORDANCE
13 WITH § 603 OF THE BALTIMORE COUNTY CHARTER.

14
15 SECTION 2. AND BE IT FURTHER ENACTED, that the publisher of the Baltimore
16 County Code is instructed to properly capitalize the title of each rule and to capitalize as proper
17 nouns the following terms wherever they appear in Appendix B:

18 “Baltimore County Board of Appeals”;

19 “Board” referring to the Baltimore County Board of Appeals;

20 “Board of Appeals”;

21 “Zoning Commissioner” and “Deputy Zoning Commissioner”;

22 “Administrative Law Judge”;

23 “Panel”;

1 “Baltimore County”;
2 “Chair” or “Acting Chair”;
3 “Rule” when referencing a rule in Appendix B;
4 “Section” when referencing a section of the Baltimore County Code or other body of law;
5 “Maryland Rule”;
6 “MDEC” as an acronym; and
7 “Planning Board”.

8
9 SECTION 3. AND BE IT FURTHER ENACTED, that the publisher of the Baltimore
10 County Zoning Regulations is instructed to make changes consistent with the intent of this Act to
11 the Rules of Practice and Procedure of the Baltimore County Board of Appeals as found in
12 Appendix H of the Baltimore County Zoning Regulations.

13
14 SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by
15 the affirmative vote of five members of the County Council, shall take effect on April 4, 2022.



LEGISLATION DETAIL

LEGISLATION

DISPOSITION

ENACTED

EFFECTIVE

AMENDMENTS

ROLL CALL - LEGISLATION

MOTION		SECOND
AYE	NAY	
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Quirk
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Patoka
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Kach
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Jones
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Marks
<input type="checkbox"/>	<input type="checkbox"/>	Councilwoman Bevins
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Crandell

ROLL CALL - AMENDMENTS

MOTION		SECOND
AYE	NAY	
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Quirk
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<input type="checkbox"/>	<input type="checkbox"/>	Councilman Kach
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<input type="checkbox"/>	<input type="checkbox"/>	Councilman Marks
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ROLL CALL - AMENDMENTS

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ROLL CALL - AMENDMENTS

MOTION		SECOND
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<input type="checkbox"/>	<input type="checkbox"/>	Councilwoman Bevins
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Crandell