

THE BOARD OF APPEALS OF QUEEN ANNE’S COUNTY

Rules of Procedure

RULE 1. Organization.

The Board of Appeals (the “Board”) shall elect from its members a Chairman who shall preside at all hearings of the Board, shall set the date for hearings, and cause to be published notices of hearings. The Board shall likewise elect a Vice Chairman who shall perform the duties of Chairman when the Chairman is absent. In the event of the absence of both the Chairman and the Vice -Chairman at any hearing, the remaining members of the Board shall elect a Chairman *pro tem* for the conduct of such hearing.

RULE 2. Applications for variance, conditional use or appeal.

Requests for variances, conditional uses or appeals under the Code of Public Laws of Queen Anne’s Co. (1996 ED) (the “Code”) shall be made on forms provided by the Board and accompanied by such filing fee as may be fixed by the Board of County Commissioners from time to time.

All applications shall be signed by at least one of the parties requesting relief or by an attorney for one of the parties requesting relief. All blanks on all forms must be filled in or marked “Not Applicable”. In the event any questions are not answered or blanks are not filled in, the application or appeal will be deemed to be incomplete and will be returned to the person who filed it.

RULE 3. Notice of Hearing.

The Board of Appeals shall cause to be published a notice of each hearing, giving the

time and place of the same and the type of relief requested. The notice shall be published in accordance with the provisions of Chapter 18 of the Code. Notice of multiple hearings to be held on the same date may be advertised in a single advertisement.

Hearings may be adjourned from time to time, and if the time and place of the continued hearing be publicly announced at the time of the adjournment, no further notice of such continued hearing shall be required; otherwise, notice thereof shall be given, as in the case of the original hearing.

RULE 4. Conduct of Hearing.

A. All hearings will be conducted in accordance with the Maryland Open Meetings Act (§ 10-501 *et seq.* of the State Government Article of the Annotated Code of Maryland, as amended from time to time), and all proceedings will be recorded. The Board will not undertake to transcribe any testimony taken at a hearing except at the request and expense of any party to the proceedings. A request for transcript must be in writing addressed to the Board and accompanied by a deposit of such reasonable sum to cover the costs of transcription as will be set by the Clerk of the Board. If it is necessary for the Board to contract with a third party to prepare a transcript, the person requesting the transcript shall be liable to that third party for the cost of transcription.

B. All parties are entitled to appear in proper person, by agent, or by an attorney. An agent, who is not an attorney admitted to the practice of law in Maryland, who acts on behalf of applicant, must present written evidence of such agency, which shall be in the form of a power of attorney or other notarized document. Attorneys admitted to the practice of law in Maryland do

not have to provide proof of their authority to act on behalf of an applicant. A corporation may appear in proper person through one of its officers. All parties are entitled to have witnesses summonsed to appear, and the Board of Appeals shall issue such summons. Only one person for each party may conduct the examination or cross-examination of each witness, unless otherwise permitted by the Board.

C. Documentary evidence may be produced by any party in support of his or its position. Such evidence, however, must be introduced through the testimony of a witness who is competent to testify to or otherwise explain the contents of said documents. Such documentary evidence shall become a permanent part of the record of the hearing, except that, with the permission of the Board, originals may be withdrawn upon the substitution of a photocopy of the same which the Board judges to be clear, readable and on substantial paper. The applicant may move all marked exhibits attached to the application into evidence at the commencement of the hearing, and any objection to the documents attached to the application must be raised at that time.

D. The applicant or appellant may make a brief opening statement at the outset of the hearing and any opposing party shall be accorded the privilege. Opponents of the application or appeal may also make brief opening statements at the outset of the hearing or defer such opening statement until the close of the applicant's case. The sequence of direct and cross examination shall be at the direction of the Board at the time of the hearing. The Board reserves the right to limit the length of examination of any witness to a reasonable time and to not accept duplicative or cumulative testimony. The applicant or appellant shall offer its witnesses and evidence at the

outset of the hearing and at the conclusion of the applicant's or appellant's case, any opposing party shall offer its witnesses and evidence. At the conclusion of all evidence, each party shall be permitted a reasonable period of time for argument.

E. In an appeal pursuant to § 18:1-119.A(1)(a) of the Code, it shall be the burden of the party noting the appeal to prove the alleged error.

F. The Board may call employees of Queen Anne's County as witnesses. The timing of when these witnesses are called shall be within the discretion of the Board.

RULE 5. Inspection of Application Documents.

Any person may inspect the documents which the Applicant is required to file with the application on any day during normal office hours at the Department of Planning and Zoning (the "Department") prior to the hearing. Per Rule 4.C, any objection to their admissibility must be made prior to the commencement of testimony. Unless an objection is made, the documents will be admitted without further action. Board members are permitted to review the documents prior to the day of the hearing.

RULE 6. Decision of the Board.

At the conclusion of the hearing, or within a reasonable time thereafter, the Board shall render a written decision containing a statement as to the findings of facts and the conclusions of law upon which such decision is based. Copies of such written decision shall forthwith be furnished to the applicant or appellant or their counsel.

RULE 7. Attorney to Board.

The Board shall employ counsel to advise it in all matters, including, when deemed necessary, advice in connection with the conduct of hearings and preparation of written decisions.

RULE 8. Application Process.

A. A completed application must be submitted to the Clerk of the Board. With regard to each application the following documents must be submitted in order to be considered complete:

1. Copy of the deed to the subject property.
2. Copy of the sectional zoning map identifying the subject property in red.
3. Copy of the tax map (if parcel is not set forth on zoning map).
4. Copy of the critical areas map identifying the subject property if it is located therein.
5. A diagram of the property including the location of any current or proposed improvement or structure shall be submitted with the application and shall identify the metes and bounds of the property and any other pertinent dimensions. This diagram shall be prepared with a reasonable degree of certainty. The Board, in rendering any decision, shall grant relief based upon the facts presented, and any error in calculation may render that decision moot, therefore, the Board recommends the applicant employ a licensed surveyor to prepare the required diagram.
6. Copy of a Critical Areas Assessment, if applicable.
7. Copy of building permit, if applicable.
8. When Chapter 18, §18:1-139 or §18:1-158 of the Code requires a plan for the proposed project, the applicant shall submit a site plan, sketch plan, or concept plan with the application.

9. Any additional documentation required by Chapter 18, §18:1-95 or Chapter 14, §14:1-61 of the Code shall be submitted with the application.
- B. Each document submitted shall be marked for purposes of identification.
- C. Once an advertisement for a hearing has been published, the documents submitted with the application may not be changed, substituted, altered, added or amended in any way. The purpose of this rule is to allow the Board and other parties an opportunity to review the evidence prior to the hearing.

RULE 9. Department of Planning and Zoning.

Any staff report or comments which the Department of Planning and Zoning desires for the Board to consider must be filed with the Clerk for the Board ten (10) days prior to the scheduled public hearing.

RULE 10. Appeals.

- A. Appeals may be taken in accordance with the applicable Maryland Rules of Procedures. Upon the filing of an order of appeal, the party filing the appeal shall be responsible for the transcript for the proceedings pursuant to Rule 4.A.
- B. Any person aggrieved by a decision of the Board shall have standing to bring an appeal.