



BOARD OF APPEALS

RULES OF PROCEDURE

Adopted July 28, 1972
Revised February 6, 1992
Revised October 1, 1992
Revised February 2, 1995
Revised February 6, 1997
Revised October 6, 1997
Revised August 5, 2004
Revised July 6, 2006
Revised October 4, 2012
Revised February 7, 2013
Revised July 2, 2015
Revised August 5, 2021

**A resolution pertaining to the adoption of
the Rules of Procedure
for the Calvert County Board of Appeals**

WHEREAS, Section 11-1.06. of the Calvert County Zoning Ordinance states that the Board of Appeals shall adopt its own rules and regulations, which Zoning Ordinance was written and adopted in accordance with former Article 66B of the Annotated Code of Maryland and now codified in Section 4-301 through 4-306 of the Land Use Article of the Annotated Code of Maryland; and

WHEREAS, the Board of Appeals seeks to update the existing Rules and Regulations, which were originally adopted on July 28, 1972, and subsequently amended; and

WHEREAS, the Board of Appeals has reviewed the Rules of Procedure, attached hereto and made a part hereof, and have found them to be acceptable;

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED, by the Board of Appeals of Calvert County, Maryland, that the proposed Rules of Procedure, attached hereto, **BE** and hereby **ARE** adopted as the official Rules of Procedure for the Board of Appeals.


BE IT FURTHER RESOLVED, that the attached Rules of Procedure hereby replace the Rules and Regulations that were originally adopted on July 28, 1972, and last amended on July 2, 2015; and

BE IT FURTHER RESOLVED, that this Resolution shall be in force and effect from and after its adoption on the date set forth below,


DONE, this 5th day of August 2021, by the Board of Appeals of Calvert County, Maryland, sitting in regular session.

ATTEST:

**CALVERT COUNTY
BOARD OF APPEALS**


Christine Goldsmith, Clerk to the Board


Susan D. Hance-Wells, Chair


Daniel O. Baker Jr., Vice-Chair


Robert Carpenter, Member


Christopher Moore, Member



Thomas H. Ireland, Alternate Member

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RULES OF PROCEDURE CALVERT COUNTY BOARD OF APPEALS

SECTION 1 – GENERAL PROVISIONS

RULE 1-101 SCOPE

These Rules of Procedure are in accordance with Section 11-1.06 of the Calvert County Zoning Ordinance and are in addition to other authority prescribed by the Ordinance.

RULE 1-102 MEMBERSHIP OF BOARD

- A. Number. The Board shall consist of at least three (3) and no more than five (5) members, plus two alternate members.
- B. Appointment. The Calvert County Board of County Commissioners shall appoint members and alternate members as provided by law.
- C. Term. The term of each member and each alternate member shall be three (3) years. Vacancies shall be filled for the unexpired terms of any members.
- D. Chair and Vice-Chair. The Board of Appeals members shall hold elections each January and elect one member as Chair and one as Vice-Chair. Special elections may be held to fill vacancies. The Chair shall preside at all meetings of the Board, and in the Chair's absence, the Vice-Chair shall preside. The Chair may call special meetings of the Board or continue hearings as deemed necessary and appropriate.

RULE 1-103 STAFF TO THE BOARD

- A. Clerk. The Clerk to the Board (hereinafter "Clerk") shall be the custodian of the records of proceedings and shall be responsible for preparing all correspondence and Orders of the Board as required by these rules, including public notices and advertisement of cases.
- B. Counsel. The Board's Counsel shall be selected by the Board and shall serve the Board as set forth in an agreement between the Board and the chosen Counsel.
- C. Administrator. The Board of Appeals staff shall include an Administrator, who is responsible for ensuring proper administration of the Board of Appeals process in accordance with these Rules of Procedure, COMAR, and the Calvert County Zoning Ordinance; administration of the Board of Appeals budget; and providing planning and zoning expertise to the Board, including interpretation of regulations, ordinances, and plans, written reports on applications that are scheduled for Public Hearing before the Board, and assistance in any other matters related to cases scheduled before the Board. The Administrator may delegate any portion of his/her/their duties to his/her/their designee.

- D. Coordinator. The Administrator may, from time to time, designate the Coordinator to act in his/her/their place as set forth above.
- E. Technical Support and Other Resources. The Board of Appeals may, at its discretion, request technical support and/or other assistance or information from any County, State, or Federal Department, Agency, or Commission.

SECTION 2 – APPLICATIONS

RULE 2-101 FORM AND CONTENT OF APPLICATIONS

- A. Minimum Requirements. An Applicant shall obtain an application form from the Clerk, the Administrator, or his/her/their designee. Upon request, the Clerk, the Administrator, or his/her/their designee shall explain the requirements for filing an application and provide information relevant to the application process; however, the Applicant shall be ultimately responsible for ensuring that the Application is complete and complies with these Rules. The Clerk, the Administrator, or his/her/their designee will make a preliminary review of the Application and may require corrections or request additional material. Incomplete applications are subject to return to the Applicant for proper completion prior to being scheduled before the Board. If returned, the Applicant will have 30 days in which to provide the requested information unless the Administrator or his/her/their designee determines additional time is necessary. At a minimum, any application for a Public Hearing by the Board of Appeals other than Decisions on an Alleged Error or Reconsideration Requests shall include the following:
 - 1. If applicable, a referral form is prepared by the Department of Planning & Zoning staff member responsible for referring the case for Board of Appeals review, indicating the purpose of the referral and the Zoning Ordinance Section from which relief is sought.
 - 2. Zoning District of the subject property.
 - 3. Applicant's name, mailing address, email address, and telephone number.
 - 4. Property owner's name (if not the Applicant), mailing address, email address, telephone number, and the physical address of the subject property.
 - 5. Brief description of the purpose of the Application.
 - 6. A copy of any previous Order involving the same property, if any.
 - 7. Signatures of all Applicants, owners, and co-owners.
 - 8. A detailed sketch or plat of the subject property and proposed developments, as specified on the Application.

9. Information required on the Critical Area form if the property lies within the Critical Area.
 10. Any other information required by the application form, which may be amended from time to time.
- B. Decisions on Alleged Errors. In accordance with Section 11-1.04. of the Calvert County Zoning Ordinance, the Application to the Board of Appeals should include, but is not limited to, any documents pertaining to the decision of the Zoning Officer and a detailed description by the Applicant as to why he/she/they believe(s) the decision was in error. Once docketed, the County should also submit written justification for the decision of the Zoning Officer, the Zoning Officer's designee, or any other administrative official in the administration and enforcement of the Zoning Ordinance for consideration by the Board.
 - C. Reconsiderations. If the Application is a request to reconsider a previous decision of the Board, the Application should include any documents pertaining to the request, including but not limited to a copy of the previous decision and a brief description by the Applicant as to the basis for the reconsideration.
 - D. Additional Information. Any other information or evidence that may be helpful to the Board in making its decision (e.g., photographs, correspondence, reports, or witness statements) may be filed with the Application. However, such evidence shall be subject to the provisions of Rule 4-102 herein.

RULE 2-102 APPLICATIONS AND DEADLINES

- A. Applications for Variances, Special Exceptions, Expansions of Non-Conforming Uses, and Other Requests. Applications for variances, special exceptions, expansions of non-conforming uses, and other requests as specified in the Zoning Ordinance shall be filed by appointment with the Clerk or Administrator or his/her/their designee and shall be scheduled for the next available Public Hearing, as determined by the Administrator or his/her/their designee. Applications will be scheduled for hearing when complete (see Rule 2-101 for minimum requirements). If an application is returned as being incomplete, the Applicant will have 30 days to comply with instructions for completion; otherwise, the Application may be closed in accordance with Rule 3-103.C., except for good cause as determined by the Board or its designee.
- B. Deadline for Applications for Decisions on Alleged Errors. An application for a Decision on an Alleged Error must be filed within 30 days of the date of issuance of the written decision (Order) upon which the appeal is based. The Application must be filed by appointment with the Clerk, the Administrator, or his/her/their designee. The case will be scheduled on the next available Public Hearing, as determined by the Administrator or his/her/their designee.

- C. Deadline for Applications for Reconsideration Requests. Applications for reconsideration requests shall be made within 15 days from the date of the written decision (Order) that is the subject of the reconsideration request. Such applications shall be filed by appointment with the Clerk or Administrator or his/her/their designee. The Application for reconsideration will be scheduled for the next available Public Hearing, as determined by the Administrator or his/her/their designee.
- D. Docketing of Applications. Once the Clerk or Administrator or his/her/their designee determines an Application is substantially complete, and all fees have been paid, the Application will be docketed and assigned a case number.
- E. No Application After Referral. The Clerk or Administrator or his/her/their designee will return referral forms prepared by Department of Planning & Zoning staff to the staff member if no application for a Variance or Special Exception is made within twelve (12) months of receiving the referral form.

RULE 2-103 AMENDMENT OF APPLICATIONS

- A. Non-Substantive Amendments. Non-substantive amendments include, but are not limited to, typographical or clerical errors that do not impact the Board's consideration of criteria for granting, granting with conditions, or denying an application. The Chair or the Chair's designee shall make the final determination as to what constitutes a non-substantive amendment. If a non-substantive amendment to an application is made before or during a hearing, the Board may, at its discretion, continue, defer, or postpone the hearing and remand the amended Application to the Clerk or Administrator or his/her/their designee, and/or any other entities from whom comment is sought. If continued, deferred, or postponed, the case shall then be rescheduled in accordance with Rule 4-101 herein.
- B. Substantive Amendments. Substantive amendments include, but are not limited to, factors that may impact the Board's consideration of criteria for granting, granting with conditions, or denying an application or request. The Chair or the Chair's designee shall make the final determination as to what constitutes a substantive amendment. If a substantive amendment to the Application is made before or during the hearing, the Board shall (1) postpone the hearing and remand the amended Application to the Clerk or Administrator or his/her/their designee for review, or (2) instruct the Applicant to submit a new application if the changes substantially alter the purpose of the Application. If the Application was initially filed within the required deadlines, the amended Application or new Application (if required) shall be deemed to have been timely filed. The case shall then be rescheduled in accordance with Rule 4-101 herein.

RULE 2-104 APPLICATION FEES

- A. To Whom Paid. Application fees shall be received by the Clerk. Checks shall be made payable to the Calvert County Treasurer.

- B. Amount. Current Application fees and refund requirements are set forth on a Fee Schedule available through the Department of Planning and Zoning. The Board of County Commissioners shall set application fees.
- C. Exemption. Non-profit organizations and County agencies are exempt from the application fee. Non-profit organizations shall provide a legal certificate documenting such non-profit status.

SECTION 3 – PREHEARING PROCEDURES

RULE 3-101 PUBLIC NOTICES

- A. Advertising. The Clerk shall publish a legal notice in at least one local newspaper of general circulation for two consecutive weeks, the first appearing at least two weeks prior to the hearing date. The legal notice shall contain the date, time, and place of the hearing and include a general description of each case. Each case description shall include the property owners' names, the purpose of the appeal, and the location and zoning of the subject property.
- B. Notices
 - 1. Notices to Owners, Applicants, and Affected Property Owners for New Cases Before the Board. The Clerk shall send notices by U.S. Mail, First Class Postage Prepaid to the owners and applicants, informing them of the date, time, and place of the scheduled public hearing during which the Board will hear their case. The Clerk or the Administrator or his/her/their designee shall prepare a list of affected properties for each case. Affected properties are those that directly adjoin the subject property and those directly across any roads and/or rights-of-way. The Clerk shall send a notice to the owner of each property on the list of affected properties. Such notice shall contain a description of the case, including the applicants' and owners' names, purpose of the appeal, and location and zoning of the subject property. The notice shall also include the date and session of the hearing agenda for which the case is scheduled. Notices to subject property owners, Applicants and affected property owners shall be mailed at least sixteen (16) days prior to the scheduled hearing date.
 - 2. Notices for Cases Continued/Deferred Before the Board. For continued or deferred cases, Rule 4-101.I. shall apply.
 - 3. Notices for Cases Postponed Before the Board. For postponed cases, Rule 4-101.J. shall apply.
- C. Posting Requirements
 - 1. Posting of Property for New Cases Before the Board. At least ten (10) days prior to the scheduled Public Hearing, the Applicant shall post a sign on the property that is the subject of the Board of Appeals Application. The sign is provided to the Applicant by the Clerk or the

Administrator or his/her/their designee. The sign shall display the date, time, and place of the hearing, the case number, and a brief description of the request. The sign shall be posted within 15 feet of the boundary line of said land which abuts the most traveled County, State, or private road; and if no County, State or private road abuts thereon, then facing in such a manner as may be most readily seen by the public. The sign shall be no less than 2 feet and no more than 5 feet above ground level. The sign shall remain continuously posted on the subject property until the Board has rendered a decision on the case. The Applicant is required to provide an Affidavit to the Clerk on the day of the hearing stating that the posting requirements have been met. Affidavit forms are provided to the Applicant by the Clerk or the Administrator or his/her/their designee.

2. Posting of Property for Continued/Deferred Cases Before the Board. For continued or deferred cases before the Board, Rule 4-101.I. shall apply.
3. Posting of Property for Postponed Cases Before the Board. For postponed cases before the Board, Rule 4-101.J. shall apply.

RULE 3-102 STAFF SITE VISITS & REPORTS

- A. Site Visits. Prior to the scheduled public hearing, the Administrator or his/her/their designee may visit each of the properties for which an application has been filed. The purpose of the site visit is to verify information contained in the Application and gather information for a Staff Report.
- B. Staff Report. After a site visit has been conducted as described above, the Administrator or his/her/their designee may prepare a written Staff Report to be entered into the record at the Public Hearing. Written Staff Reports shall be made available to the Board and the Applicants prior to the Public Hearing.

RULE 3-103 WITHDRAWAL OR POSTPONEMENT OF A PENDING APPLICATION

- A. Withdrawal of a Pending Application. Requests to withdraw an application shall be made in writing to the Board of Appeals prior to the hearing or orally by the owner or Applicant during the hearing.
- B. Postponement of a Pending Application. A request to postpone an application shall be made in writing to the Board of Appeals at least ten (10) days prior to the hearing or orally by the owner, Applicant, Coordinator, or Administrator during the hearing. Postponements resulting from County administrative and/or a clerical error do not require additional fees. Postponements granted at the Applicant's first request, made prior to advertising the case, will not require any additional fees prior to rescheduling the case. Postponements granted at any subsequent requests by the Applicant will require repayment of application fees by the Applicant prior to rescheduling the case. Postponed cases will be rescheduled by the Clerk for the first available Public Hearing date after fees are paid.

- C. Closing of Pending Applications. Cases that have been continued or deferred by the Board in accordance with Rule 4-101.I., or postponed by the Board, owner, Applicant, or County for a period of six (6) months, **with no action during that time period**, will be deemed closed, except for good cause as determined by the Board or its designee. Such cases may be scheduled to be heard by the Board only upon receipt of a new Application (including an explanation for inaction) and application fee, as described in Rule 2-104.B. The new Application will be deemed timely filed if the original Application was timely filed. As used in this provision, the term “action” includes, but is not limited to, amendment of the Application; submission of supporting documentation; submission to the Board of legal memoranda; review, action, or consideration by a governmental entity (e.g., Planning Commission, Critical Area Commission, Environmental Protection Agency, Court of general jurisdictional, etc.). The Clerk, Administrator, or his/her/their designee will send a 30-day reminder notice to Applicants in cases covered by this section.

RULE 3-104 COMMUNICATION WITH BOARD OF APPEALS MEMBERS

- A. Ex Parte Communications. No party, nor any attorney, spokesman, or representative of any party, shall communicate *ex parte* or confer privately with any member of the Board of Appeals or with the Board’s Counsel concerning the substance of a pending Application.
- B. Technical, Logistical, and Procedural Inquiries. Questions involving technical, logistical, or procedural inquiries, including but not limited to requests for accommodation and technology requirements, should be directed to the Clerk or the Administrator or his/her/their designee.
- C. Prehearing Motions or Requests. Prehearing motions or requests involving procedural issues (e.g., consolidation of applications, bifurcation of issues, jurisdictional issues, etc.) may be submitted by the Applicant, affected property owners, or Board staff. Such motions or requests must be in writing and must set forth the basis for the request. The Board Chair shall rule on such requests during the Public Hearing scheduled for the particular case.
- D. Requests for Information. Any request for information on a case from a member of the public other than an Applicant, subject property owner, affected property owner, or the representative of such parties shall be directed to the Clerk or the Administrator or his/her/their designee.

SECTION 4 – HEARINGS

RULE 4-101 GENERAL REQUIREMENTS

- A. Scheduling of Hearings. The Clerk, in consultation with the Board and the Administrator or his/her/their designee, shall be responsible for establishing the date and time of the regular monthly meeting. Additional meetings may be scheduled as needed.

- B. Open Hearings. Evidence shall be presented to the Board of Appeals in hearings open to the public in accordance with Rule 4-102 herein. Exhibits provided to the Board prior to the hearing will be reviewed during the open hearing. To the greatest practicable extent, any party wishing to present physical evidence to be introduced at the hearing (“exhibits”), including but not limited to documents, correspondence, photographs, maps, plats, and diagrams, should provide such evidence to the Clerk at least ten (10) days prior to the hearing. This deadline is to allow exhibits to be uploaded, copied, or otherwise distributed in accordance with applicable notice provisions in advance of the hearing. **This deadline will apply whether the hearing is conducted in-person or via videoconference.** In the case of videoconferencing, exhibits not received within five (5) days of the virtual hearing must be submitted in an acceptable digital format, ready to be shared with all participants. Exhibits presented the day of the virtual hearing are discouraged.
- C. Closed Sessions. The Board of Appeals shall not hear any party of interest in a closed session, nor receive any evidence, argument, or other matter in closed session except as provided by Maryland Code, General Provisions, Title 3, Open Meetings Act, §3-305.
- D. Conduct of Hearing. The Chair shall regulate the course of the hearing. The Chair shall rule upon procedural motions made prior to the hearing at the time of the hearing. The Chair shall further rule upon procedural matters and objections made during the course of the hearing as they occur. The public is invited to attend Board of Appeals hearings. Hearings may be conducted in-person, by telephone, or by videoconferencing, as deemed appropriate by the Board Chair in accordance with social distancing requirements. If an individual wishing to participate is unable to do so via telephone or videoconference, he/she/they should contact the Clerk or the Administrator, or his/her/their designee to arrange for in-person participation in accordance with any social distancing requirements. The individuals attending shall maintain order and refrain from disturbing the orderly process of the hearing, whether in-person, by phone, or by videoconferencing. The Chair may clear the hearing room of disruptive individuals or recess the hearing. The Chair may make rulings as necessary to conduct the hearing in an efficient and orderly manner, including, but not limited to, imposing time limitations and excluding irrelevant, repetitive, and/or unreliable evidence or testimony.
- E. Persons Wishing to Testify. Persons wishing to testify at Board of Appeals hearings shall comply with the following general requirements:
1. All persons who testify before the Board of Appeals shall testify under oath, administered by the Chair or the Clerk.
 2. Each person who testifies shall first give his/her/their name, address, and occupation.
 3. The Chair may set time limitations and otherwise limit testimony as described in 4-101.D. above.

- F. Attendance of Witnesses. The Chair, or Acting Chair, may compel the attendance of witnesses by subpoena. An Applicant may request that the Chair compel the attendance of a witness by sending a written request to the Clerk or the Administrator or his/her/their designee at least ten (10) days prior to the scheduled hearing. The Applicant or the Applicant's representative is responsible for serving the subpoena except in certain circumstances when the Board may provide for service. A fee may be assessed if the Board must provide for service of the subpoena.
- G. Limit to Number of In-Person Participants. In the event of a public health or other emergency requiring restrictions to the number of in-person participants, the parties must confer and submit a joint request to the Administrator or his/her/their designee for consideration.
- H. Order of Presentation. Each case shall be presented in the following order:
1. The Chair shall call the case by reading the Legal Notice for the case.
 2. The Applicants, property owners, and/or their representatives and witnesses wishing to testify shall be administered an oath by the Chair or Clerk.
 3. The Applicants shall present his/her/their case first, submitting all relevant testimony and evidence in accordance with Rule 4-102 herein. The Board members or the Board's Counsel may question the Applicant and/or such Applicant's witnesses at any time during the presentation.
 4. The Administrator or his/her/their designee shall present a Staff Report, if applicable, and any other relevant information and may ask questions of the Applicant and/or such Applicant's witnesses at this time. The Board members or the Board's Counsel may ask questions of the Administrator or his/her/their designee at any time.
 5. Any person wishing to testify in support of or in opposition to the request shall be administered an oath by the Chair or Clerk and shall testify next. The Board members or the Board's Counsel may ask questions of such persons at any time during his/her/their testimony.
 6. Any person wishing to cross-examine any witness who testifies will be given the opportunity to do so.
 7. Any petitions or correspondence pertaining to the request received prior to or during the hearing shall be entered into the record by the Chair or the Clerk.
 8. The Applicant shall be provided time, after all testimony is heard, to respond to any comments made by persons testifying.
 9. After all testimony is heard, the Board shall determine whether the information presented is sufficient for the Board to render a decision.

- a. If the Board determines that the information presented at the hearing(s) is sufficient to render a decision on the request, the Chair shall officially close the record. A decision shall be made either at that time or within the 45-day time period specified in Rule 5-101. No additional testimony or evidence shall be submitted to the Board after the record is officially closed.
 - b. If the Board determines that additional information is needed, a motion shall be made to leave the record open in order to obtain specific information from the Applicant, Planning Staff, Counsel, or any party specified by the Board. If such additional information is requested, the Board shall notify parties of interest of this action. Requested information will be considered at a regularly scheduled Board hearing or at a special hearing scheduled by the Board at its discretion and with proper notification. Upon receiving the additional information, the Board may allow additional time for review and rebuttal of the information prior to making its final decision.
 - c. The Board may defer action on a case pending a site visit by the Board. The Board shall request and receive permission of the Applicant to enter the subject property, accompanied by the Administrator or his/her/their designee, before scheduling a site visit.
 - d. Any party of interest may request that the record be held open for a specified period of time. Such requests are granted only at the Board's discretion.
 - e. If the Board leaves the record open for additional information, the time period for the Board to make its decision shall be stayed, in accordance with Rule 5-101.A. herein. That time period shall begin once the Board receives all additional information and closes the record for the case.
- I. Continued/Deferred Cases. Cases that have not been concluded at the initial hearing may be continued or deferred to the next available hearing date or a hearing date specified by the Board. The advertising requirement shall be in accordance with Rule 3-101. It shall not be necessary to re-send notices to Applicants and affected property owners. The notice posted on the property shall continue to remain in place until the Board has rendered a decision.
 - J. Postponed Cases. The Board has discretionary authority to postpone an advertised case for good cause shown, prior to hearing the case. Advertised cases that the Board has postponed may be rescheduled to the next available hearing date or a hearing date specified by the Board. The rescheduled date and nature of the Application must be properly advertised in the Board's Legal Notice (See Rule 3-101.A.). It shall be necessary to re-send notices to Applicants and affected property owners and re-post to the subject property.

- K. Withdrawn Cases. Cases may be withdrawn in accordance with Rule 3-103. If the Application is resubmitted, application fees shall apply.

RULE 4-102 EVIDENCE

- A. Rules of Evidence. Any evidence that would be admissible under the rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the Board of Appeals. The Board is not bound by the technical rules of evidence but will apply those rules so that relevant evidence may be conveniently brought forth. The Board may exclude immaterial or unnecessarily repetitious testimony or other irrelevant evidence and may limit the number of witnesses when testimony is cumulative in nature.
- B. Materials Setting Forth Legal Argument. Generally, pleadings, motions, and legal memoranda will not be considered evidence in support of or in opposition to a position taken by the Applicant. Such materials tend to summarize actual evidence to be presented during the conduct of the hearing. Such materials will, however, become part of the record of the case.
- C. Materials Received by Reference. Public records, previous Orders of the Board of Appeals, and laws and regulations of Calvert County that pertain to a particular case may be received by reference by the Board of Appeals for its consideration.
- D. Decisions on Alleged Errors. Decisions on Alleged Errors shall be based on the factual record that existed at the time of the alleged error by the Zoning Officer, the Zoning Officer's designee, or any other administrative official in the administration and enforcement of the Zoning Ordinance. However, for good cause shown, the Board may receive additional testimony and evidence, as it deems necessary for proper disposition of the issue.

SECTION 5 – DECISIONS AND ORDERS OF THE BOARD OF APPEALS

RULE 5-101 DECISIONS AND ISSUANCE OF ORDERS

- A. Time Period. The Board shall render a decision in each case no later than 45 days after the record is closed. A written Order shall be issued no later than 45 days after the Board's final decision has been made. Failure of the Board to decide a case and issue a written Order within the specified time periods set forth herein shall constitute approval of the Application, except in the event a Local, State, or National state of emergency has been declared by the appropriate governmental authority.

When the Board leaves the record open for additional information from the Applicant, parties of interest, and/or any other entities from whom information has been requested by the Board, the 45-day time period set forth above shall not begin until the record is closed (see Rule 4-101.I. herein).

- B. Continued/Deferred or Postponed Cases. Cases that have been continued, deferred, or postponed for a period of six (6) months, with no action during that time period, will be deemed closed, except for good cause as determined by the Board or its designee. Cases deemed closed may be scheduled to be heard by the Board only upon receipt of a new Application and application fee, as described in Rule 2-104.B. The new Application will be deemed timely filed if the original Application was timely filed. As used in this provision, the term “action” includes, but is not limited to, amendment of the Application; submission of supporting documentation; submission to the Board of legal memoranda; review, action, or consideration by a governmental entity (e.g., Planning Commission, Critical Area Commission, Environmental Protection Agency, Court of general jurisdiction, etc.). The Clerk or the Administrator or his/her/their designee will send a 30-day reminder notice to Applicants in cases covered by this section.
- C. Voting. Three (3) favorable votes are required to approve an Applicant’s request. Failure to obtain three favorable votes shall have the effect of a denial of the request.
- D. Mailing. The Clerk shall mail or email copies of the Order to the Applicants, owners, their representatives, and any persons who testified or submitted correspondence concerning the case to the Board. Persons testifying as the designated representative of a group, association, or organization shall receive a copy of the Order on behalf of the group, association, or organization. Orders shall be distributed within one week after they are signed, in accordance with Rule 5-102.E. below.
- E. Filing of Orders. The Order shall be made a part of the official record of the proceedings and shall be maintained in the office of the Clerk.

RULE 5-102 CONTENT OF ORDERS

- A. Findings of Fact and Conclusions. Each Order granting or denying an Application shall contain findings of fact and conclusions determined by the Board of Appeals when deciding the case. The Board’s findings of fact and conclusions shall be based upon the testimony and evidence presented and/or received at the Public Hearing(s) and any information gained from site visits conducted by the Board in accordance with Rule 4-101.
- B. Conditions. The Board may attach specific conditions to its decision on an Applicant’s request, as provided for by law. Such conditions shall be included in the Order.
- C. Review by Counsel. The Board’s Counsel may review any Orders for legal sufficiency.
- D. Review by Administrator. The Administrator or his/her/their designee may review Orders for accuracy and completeness.
- E. Signature, Date. Each Order granting or denying an Applicant’s request shall be in writing, signed by the Chair of the Board of Appeals, entered by

the Clerk, and dated with the date on which the Order is signed. The Order does not become final until signed by the Chair.

SECTION 6 – REVISORY POWER OF THE BOARD OF APPEALS

RULE 6-101 MODIFICATIONS AND RECONSIDERATIONS

A. Modifications. The following Order modifications are permitted, at the discretion of the Board:

1. Without prior public notice or hearing, the Clerk may modify and/or revise any Order to correct a non-substantive clerical error (e.g., typographical or spelling error). The Board shall send a copy of the corrected Order to each recipient of the original Order. Correction of clerical errors does not affect the date on which subsequent appeals may be based. The date of the original Order shall be the official date for appeal purposes.
2. With prior public notice, the Board may modify and/or revise any Order in the case of fraud, mistake, or irregularity. Such modifications or revisions shall be conducted in open session at the Board's hearing. The date of the modified/revised Order shall be the official date for appeal purposes.
3. With prior public notice, the Board shall modify and/or revise any Order remanded to the Board in accordance with an Order issued by the Circuit Court for Calvert County, the Court of Special Appeals of Maryland, or the Court of Appeals of Maryland. Such modifications or revisions shall be conducted in open session at the Board's hearing in accordance with said Order. The date of the modified/revised Order shall be the official date for appeal purposes.

B. Reconsiderations. The following guidelines shall apply to reconsiderations.

1. Any party to a case may apply for a reconsideration of the Board's decision no later than fifteen (15) days from the date of the Order. Application fees for reconsiderations are set forth in the fee schedule.
2. The reconsideration case shall be advertised, and notices shall be mailed to all parties to the case in accordance with Rule 3-101. Posting of the property is not required.
3. At a regularly scheduled hearing of the Board, the party requesting the reconsideration may present a brief argument as to why the case should be reconsidered. All other parties shall have the right to respond briefly to any statement made by the requesting party.
4. The Board shall only reconsider a matter if evidence is submitted which could not reasonably have been presented at the original hearing.
5. The Board shall not reconsider a matter if evidence is submitted which could reasonably have been presented at the original hearing.

6. If the Board decides to reconsider a matter, the record for the case shall be reopened. At the Board's discretion, the case shall be reheard at the time the decision is made to reopen the case or at an alternative time determined by the Board upon making its decision to reopen the case.
7. The time for appeal to the Circuit Court, as specified in Rule 7-101 herein, shall be stayed upon receipt of a timely filed Application for Reconsideration. The appeal period shall resume on the date of the Board of Appeals' written decision on the reconsideration request and/or revised Order for the case.

SECTION 7 – APPEALS

RULE 7-101 APPEALS TO CIRCUIT COURT

In accordance with Section 11-1.07. of the Calvert County Zoning Ordinance, any person or persons aggrieved by any decision of the Board of Appeals may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules, Title 7, Chapter 200. Such appeals shall be filed with the Court within 30 days of the date of the Board's Order.

RULE 7-102 SECOND APPLICATIONS TO BOARD OF APPEALS

In accordance with Section 11-1.02. of the Calvert County Zoning Ordinance, if any Application is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final Order.

SECTION 8 – OFFICIAL RECORD AND PROCEEDINGS

RULE 8-101 OFFICIAL RECORD

The Board of Appeals shall maintain an official record of its proceedings in each case. This record shall consist of all testimony and exhibits, including an electronic recording of the proceedings. The official records shall be kept in the office of the Clerk. All information contained in the official records, except privileged correspondence between the Board's Counsel and the Board of Appeals, shall be made available to the public upon request, with reasonable time to accommodate the request.

RULE 8-102 PROCEEDINGS OF THE HEARINGS

- A. Transcripts. Written transcripts of the proceedings for any case are available through the Clerk. Transcripts will be prepared in accordance with County policy, including but not limited to the County fee schedule.
- B. Proceedings. Proceedings of the hearing may be reviewed by appointment with the Clerk.

SECTION 9 – TIME

RULE 9-101 TIME

In computing any period of time prescribed by these rules, the day of the Order, event, act, or default after which the designated period of time begins to run is not included. If the period of time allowed is more than seven (7) days, intermediate Saturdays, Sundays, and holidays are counted, but if the period of time allowed is seven (7) days or less, intermediate Saturdays, Sundays, and holidays are not counted.

The last day of the period so computed is included unless:

1. It is a Saturday, Sunday, or holiday, in which event, the period runs until the next day that is not a Saturday, Sunday, or holiday; or
2. The act to be done is the filing of a paper with the Clerk or the Administrator or his/her/their designee, and on the last day of the period that office is not open, or it is closed for a part of the day. In this event, the period runs until the end of the next day that is not a Saturday, Sunday, or holiday or a day the office is not open during its regular hours.

SECTION 10 – SEVERABILITY

RULE 10-101 SEVERABILITY

If any Section, Rule, clause, sentence, part, or parts of these Rules of Procedure shall be declared invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the Rules in their entirety or of the remaining Rules or of any sections or parts thereof.