

**RULES OF PROCEDURE
BOARD OF ZONING APPEALS**

Rule 1. Membership.

The Board of Zoning Appeals shall consist of members and alternate members appointed and confirmed as shall, from time to time, be provided by the Zoning Ordinance.

Rule 2. Officers.

- A. The members shall elect a Chairman and a Secretary who shall serve until the expiration of their respective current terms of appointment or the passage of one (1) year, whichever shall first occur.
- B. In the event that the Chairman shall be absent from any meeting, or by reason of physical or mental disability, death, resignation, illness or any other reason shall be unable or unwilling to perform the duties of that office, the Secretary shall serve as Acting Chairman and shall perform the duties of the new Chairman until the Chairman shall return to duty or a new Chairman shall be elected.
- C. The duties of the Chairman shall be to call and conduct meetings of the Board, set dates and determine the location of all meeting, review all applications, petitions, requests and other pleadings filed with the Board in accordance with matters of evidence and procedure, subject to an appeal of said ruling to the entire membership of the Board or to a motion by any other member of the Board and passed by a majority vote of the Board overruling the decision of the Chairman. The Chairman shall administer oaths and compel the attendance of witnesses.
- D. The duties of the Secretary shall be to take minutes of all meetings and to serve as Acting Chairman as hereinbefore provided.
- E. An employee of the Town of Easton shall be designated by a majority vote of the members of the Board to serve as Clerk to the Board. The Clerk shall perform all clerical tasks for the Board, keep a record of the minutes of all meetings, furnish all members with copies of all applications, petitions, requests or other pleadings filed with the Board immediately upon receipt of the same, record the vote of each member on each question to come before the Board, notify all members of all meetings as they shall be from time to time called by the Chairman or by action of the Board, keep records of the Board's examinations and other official actions, review all applications, petitions, requests or other pleadings filed with the Board in accordance with the procedures hereinafter set forth, prepare all public notices required by these rules, the Zoning Ordinance or other applicable laws and arrange for the publication of the same at the direction of the Chairman.

- F. The Board shall consult with the Town Attorney as it shall from time to time deem appropriate or necessary, and may request from said Town Attorney a written opinion or oral report on any matter relating to any question before the Board. The Board may also request that the Town Attorney or an Assistant Town Attorney be present at any meetings of The Board.

Rule 3. Interpretation.

- A. The headings, subheadings, and references, contained in these Rules constitute not part of the Rules but are for convenience only.
- B. Words in the singular shall include the plural number and works in the masculine shall include the feminine and neuter genders as well, except as may result from necessary implication.
- C. In computing any period of time prescribed by these Rules or any applicable statute, the day of the act, event or default, after which the designated time begins to run is not included. Saturday's, Sunday's and legal holidays (including both state and federal dates of celebration of any legal holiday) shall be counted when the prescribed period is more than seven (7) days; otherwise these days shall not be counted; provided, however, that when the last day shall fall on one of said days or on a day during which the Town Office is not open during its regular hours, then the deadline shall be extended until the next day which is not one of said days and during which the Town Office shall be open during its regular hours.

Rule 4. Oath Form.

The form of the oath for a witness, which may be put to the witness in the form of a question by the Chairman or read by the witness into the record, shall be as follows: "I do hereby solemnly declare and affirm under the penalties of perjury that the testimony I shall give to the Board of Zoning Appeals in the matter now pending before it shall be the truth, the whole truth and nothing but the truth." In the event that the foregoing oath is put to the witness in the form of a question which is substantially the same, it shall be sufficient for the witness to respond by saying "I do", "I Shall", "I Will", "I Affirm" or other words conveying the same intent.

Rule 5. Definitions.

- A. Affidavit
"Affidavit" means an oath that the matters and facts set forth in the paper writing to which it pertains are true and correct to the best of the affiant's knowledge, information and belief.
- B. Applicant

- “Applicant” means any person who has applied to the Board for review of an administrative decision, a special exception or a variance.
- C. Attorney
 “Attorney” means an attorney at law who has been admitted to practice in this state by the Court of Appeals.
- D. Attorney-in-Fact
 “Attorney-in-Fact” means one who has been authorized to act for another for some particular purpose or for the general conduct of business by virtue of a written power of Attorney which is valid and enforceable under the laws of The State of Maryland or of the state in which is limited in character shall include the authority to act with respect to an application before the Board.
- E. Board
 “Board” means the Board of Zoning Appeals of the Town of Easton, Maryland.
- F. Counsel
 “Counsel” means attorney.
- G. Meeting
 “Meeting” means any hearing on an application for review of an administrative decision, a special exception or a variance, or any official gathering of the Board for the purpose of transacting any other business.
- H. Member, Membership
 “Member” means a person appointed to serve on the Board.
 “Membership” means the entire number of appointees to the Board.
- I. Ordinance
 “Ordinance” means the Zoning Ordinance of the Town of Easton, Maryland, Ordinance Number 6- (N-2), as adopted by the Town Council on February 16, 1976, and by said Council subsequently amended.
- J. Pleading
 “Pleading” means an Application, Motion to Dismiss, Motion for the Disqualification of a Member or an Answer.
- K. Rules
 “Rules” means the Rules of Procedure of the Board.
- L. Summons
 “Summons” means an order directed to a person requiring that person’s attendance at a particular time and place, in connection with proceedings, to take such action as may be specified therein.
 “Summons” shall include “supoena.”

Rule 6. Promulgation and Modification of Rules.

Any amendment to these Rules which shall be proposed for adoption on or after July 1, 1979, shall be proposed at a meeting of the Board by at least one member of the Board. The meeting at which the discussion and vote is to take place shall be held not less than fifteen (15) days from the date of

proposal. A vote of a majority of the members of the Board shall be sufficient for the adoption of a proposed rule.

Rule 7. Meetings.

- A. All meetings of the Board shall be open to the public.
- B. A quorum shall consist of two members for the purpose of conducting a meeting or transacting any business. In the event of the attendance of only two members at a hearing, the Chairman shall bring this fact to the attention of the persons present, and shall determine whether there are any obligations to proceeding with the hearing.
- C. A motion may be made by any member of the Board, including the Chairman, and need not be seconded. A vote of the majority of the membership of the Board shall be required for any action taken by the Board.
- D. A meeting shall be held at the call of the Chairman and at such times as the Board by majority vote shall designate, but a meeting shall be called within thirty (30) days of the filing of a notice of an appeal concerning the interpretation or administration of the Ordinance.
- E. Any party may appear in proper person, by agent or attorney-in-fact, or by an attorney admitted to practice law in this state by the Court of Appeals of the State of Maryland. A party may not pay a fee or other compensation for representation before the Board to any person, firm or corporation, except a fee to an attorney.
- F. The Chairman shall announce the procedure to be followed in any meeting. The Applicant shall be permitted to put on evidence first and then those who oppose the application, petition or request shall be permitted to respond. Reasonable time limits for presentations may be set by the Chairman but should be announced at the beginning of the hearing. The applicant shall speak first and last during final arguments. Opponents may be requested to select a spokesman or limited number of spokesman to represent them, question witnesses and make final arguments on their behalf. All persons wishing to testify regarding the subject matter of the hearing shall be afforded an opportunity to do so.

Rule 8. Decisions.

The Board shall render a decision within the time specified by the Ordinance. The Clerk shall mail or deliver a copy of said decision to the party who requested review by the Board and to such other parties or persons as the Chairman may direct.

Rule 9. Rules of Evidence.

The Rules of Evidence set forth in Section 252 of Article 41 of the Annotated Code of Maryland, shall obtain at all meetings.

Rule 10. Applications.

All applications for review of an administrative decision a special exception or a variance shall conform to the requirements of the zoning ordinance and shall contain the following information.

- A. The name and address of the applicant;
- B. The name and address of the owner of the property if the owner is a person other than the applicant;
- C. The location of the property including the street and mailing address;
- D. A copy of the deed conveying present ownership of the property which has been duly recorded among the Land Records of Talbot County, Maryland shall be attached to said application;
- E. A statement of the propose of the application;
- F. The names and addresses of persons, associations, or corporations to which the Applicant desires that notice be sent of the date and time of the hearing or for which a summons is requested;
- G. The date and application number of any previous application with respect to said property, known to the applicant, and the action taken on said application;
- H. A sketch drawn to scale of the property with all dimensions of lot and buildings thereon, distances between building and property lines, bounding street or road names, contiguous and opposite properties with names of owners, North point and scale;
- I. In the event that the applicant is a person other than the owner, an explanation of the applicant's interest in said property, and a written statement from the owner shall be attached stating whether or not the owner supports the request made in the application;
- J. If the applicant is to be represented by an agent or attorney-in-fact, documentary evidence that said representative is indeed so authorized by the applicant (i.e. a copy of the Power of Attorney or statement of agency) shall be attached;
- K. If an attorney attorney-in-fact, or agent, assists in the order preparation and/or filing of the application, then the name, address, and telephone number and signature of said representative shall be shown on the application;
- L. All statements made on the application and all documents attached to the application shall be supported by an affidavit of the applicant or an attorney-in-fact acting for said applicant.

Rule 11. Notice.

- A. Notice of a hearing on an application shall be posted by a sign in a conspicuous manner on the subject property so as to be seen from a

public way for not less than fifteen (15) days prior to the date set for the hearing.

- B. Notice of a hearing shall be posted in the Town Hall (Mayor and Council's Office) for not less than fifteen (15) days prior to the date set for hearing, and all documents filed in the case shall be available for public inspection at said office during regular working hours.
- C. Notice shall be published in a paper of general circulation in the Town of Easton at least fifteen (15) days prior to the date set for hearing, and shall contain the following information.
 - 1. The name of the applicant, owner (if the owner is a person other than the applicant), and any agent, attorney-in-fact or attorney acting for said applicant;
 - 2. The location of the property including the street mailing addresses, and the type of zone in which the property lies;
 - 3. A description of the purpose of said application and the relief requested therein;
 - 4. The application number assigned to said application by the Secretary;
 - 5. The following statement:: "A copy of the application may be inspected during regular business hours in the office of the Mayor and Council of Easton, 14 S. Harrison Street, Easton, Maryland 21601" or a statement substantially to that effect.
 - 6. The date, time and place of the meeting or hearing to be held on said application, and a statement that all interested persons are invited to attend.
 - 7. The name of the Clerk.

Rule 12. Motion and Responsive Pleadings.

Any person, partnership or corporation may file a pleading with the Board prior to the date of the hearing setting forth objections to the application or any part thereof, but the failure to file said pleading shall not constitute a waiver of said objections.

- A. Motion to dismiss.
 - 1. A motion to Dismiss may be filed questioning the jurisdiction of the Board, the compliance of the application or the notice with these rules, the lack of legal capacity of the application or one acting for the applicant, the compliance of the applicant or application with the terms of the Ordinance, or any other reason why the Board should not consider the application on its merits.
 - 2. The Chairman may grant, deny or reserve the ruling for action by the entire Board on such Motion to Dismiss. In the event that the Chairman either grants or denies the Motion, his ruling may be appealed by any party aggrieved thereby to the membership of the Board.

B. Motion for the Disqualification of a Member.

1. An objection to the participation of any member of the Board based on financial or other interest in the subject matter or property, or based on the relationship of said member to any party may filed with the Board. Such an objection should, if at all possible, be filed sufficiently in advance of the meeting to permit the Board to arrange for the attendance of an alternate member if such is deemed necessary.
2. The Board may determine whether or not any member has a conflict of interest which might prevent that member from being impartial or which would tend to create the impression of partiality to the general public.

C. Answer.

An Answer to the Application on its merits maybe filed prior to the hearing.