

RULES OF PROCEDURE

CALVERT COUNTY

BOARD OF APPEALS

Adopted 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

**A RESOLUTION PERTAINING TO THE ADOPTION OF
THE RULES OF PROECEDURE
FOR THE CALVERT COUNTY BOARD OF APPEALS**

WHEREAS, Section 11-1.02 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 article 66B 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 which are attached hereto and made a part hereof, and have found them to be acceptable;

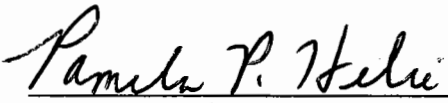
NOW, THEREFORE, BE IT RESOLVED AND ORDAINED, by the Board of Appeals of Calvert County, Maryland, that the proposed Rules of Procedure which are attached hereto, **BE** and hereby **ARE**, adopted as the official Rules of Procedure for the Board of Appeals.

AND 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 October 6, 1997.

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 6th day of July 2006, by the Board of Appeals of Calvert County, Maryland, sitting in regular session.

ATTEST:




Pamela P. Helie, Clerk to the Board


**CALVERT COUNTY
BOARD OF APPEALS**



Michael J. Reber, Chairman



Walter R. Boynton, Vice Chairman



Daniel O. Baker, Jr., Member

TABLE OF CONTENTS

	Page No.
SECTION 1 - GENERAL PROVISIONS	1
RULE 1-101 SCOPE	1
RULE 1-102 MEMBERSHIP OF BOARD	1
A. Number.	1
B. Appointment.	1
C. Term.	1
D. Chairman and Vice-Chairman.	1
RULE 1-103 STAFF TO THE BOARD	1
A. Clerk to the Board.	1
B. Board's Counsel.	1
C. Planner/Administrator.	1
D. Technical Support.	2
SECTION 2 - APPLICATIONS	2
RULE 2-101 FORM AND CONTENT OF APPLICATIONS	2
A. Minimum Requirements.	2
B. Decisions on Alleged Errors.	3
C. Reconsiderations.	3
D. Additional Information.	3
RULE 2-102 SUBMISSION OF APPLICATIONS - DEADLINES	3
A. Deadline for applications other than administrative appeals.	3
B. Deadline for Decisions on Alleged Errors.	3
C. Deadline for Reconsideration Requests.	4
RULE 2-103 AMENDMENT OF APPLICATIONS	4
A. Non-Substantive Amendments.	4
B. Substantive Amendments.	4

TABLE OF CONTENTS (CONTINUED)

	Page No.
RULE 2-104 APPLICATION FEES	4
A. To Whom Paid	4
B. Amount.	4
C. Exemption.	4
SECTION 3 - PRE-HEARING PROCEDURES	4
RULE 3-101 PUBLIC NOTICES	4
A. Advertising.....	4
B. Notices to Owners, Applicants, and Affected Property Owners.	5
C. Posting Requirements.	5
RULE 3-102 STAFF SITE VISITS & REPORTS	6
A. Site Visits.....	6
B. Staff Reports.	6
RULE 3-103 WITHDRAWAL OR POSTPONEMENT OF PENDING APPLICATION	6
RULE 3-104 COMMUNICATION WITH BOARD OF APPEALS MEMBERS	6
SECTION 4 - HEARINGS	7
RULE 4-101 GENERAL REQUIREMENTS	7
A. Scheduling of Hearings.....	7
B. Open Hearings.	7
C. Closed Sessions.....	7
D. Conduct of Hearing.....	7
E. Official Record.....	7
F. Persons Wishing to Testify.	7
G. Attendance of Witnesses.....	7
H. Order of Presentation.	7
I. Continued / Deferred Cases.	10
J. Postponed Cases.....	10
K. Withdrawn Cases.	10

TABLE OF CONTENTS (CONTINUED)

	Page No.
RULE 4-102 EVIDENCE.....	10
A. Rules of Evidence.....	10
B. Materials Received by Reference.....	10
C. Decisions on Alleged Errors.....	10
SECTION 5 – DECISIONS AND ORDERS OF THE BOARD OF APPEALS	10
RULE 5-101 DECISIONS AND ISSUANCE OF ORDERS.....	10
A. Time Period.....	10
B. Voting.....	11
C. Mailing.....	11
D. Filing of Orders.....	11
RULE 5-102 CONTENT OF ORDERS	11
A. Findings of Fact and Conclusions.....	11
B. Conditions.....	11
C. Review by Counsel.....	11
D. Signature, Date.....	11
SECTION 6 - REVISORY POWER OF THE BOARD OF APPEALS	12
RULE 6-101 MODIFICATIONS AND RECONSIDERATIONS.....	12
A. Modifications.....	12
B. Reconsiderations.....	12
SECTION 7 - APPEALS	13
RULE 7-101 APPEALS TO CIRCUIT COURT	13
RULE 7-102 SECOND APPLICATIONS TO BOARD OF APPEALS	13
SECTION 8 – OFFICIAL RECORD AND PROCEEDINGS	13
RULE 8-101 OFFICIAL RECORD.....	13
RULE 8-102 PROCEEDINGS	13
A. Transcripts.....	13
B. Tapes	14

TABLE OF CONTENTS (CONTINUED)

	Page No.
SECTION 9 – TIME.....	13
RULE 9101	13
SECTION 10 SEVERABILITY	14
RULE 1001 SEVERABILITY.....	14

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 three (3) 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 in the following manner: Alternate members shall be given consideration first, and in order of their appointment dates.
- D. Chairman and Vice-Chairman. The Board of Appeals members shall hold elections each January and elect one member as Chairman and one as Vice-Chairman. Special elections may be held to fill vacancies. The Chairman shall preside at all meetings of the Board, and in the Chairman's absence the Vice-Chairman shall preside. The Chairman may call special meetings of the Board, or continue hearings as deemed necessary and appropriate.

RULE 1-103 STAFF TO THE BOARD

- A. Clerk to the Board. The Clerk to the Board 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. Board's 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. Planner/Administrator. The Board of Appeals staff shall include a Planner/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.

- D. 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 Department of Planning and Zoning. Upon request, the Department of Planning and Zoning shall explain the requirements for filing an application and provide information relevant to the application process. However, it shall be the applicant's responsibility to ensure that the application is adequately completed. The Clerk to the Board or the Planner/Administrator shall 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. 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. A referral form prepared by the Department of Planning and 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. Purpose of the Appeal.
 4. Applicant's name, mailing address and telephone number.
 5. Owner's name, mailing address and telephone number, and the physical address of the subject property.
 6. Signatures of all applicants, owners, and co-owners.

7. Names and mailing addresses of all affected property owners. This includes all properties that directly adjoin the subject property and those properties across any roads and/or rights-of-way.
 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, if the application is for a decision on an alleged error made in any denial of an application for a building permit, or by the Zoning Officer, or the Zoning Officer's designee, or any other administrative official in the administration and enforcement of the Zoning Ordinance, any documents pertaining to that decision shall be included with the application to the Board of Appeals.
- C. Reconsiderations. If the application is for a reconsideration of a previous decision of the Board, any documents pertaining to the request shall be included with the application to the Board of Appeals.
- D. Additional Information. Any other information or evidence that may be helpful to the Board in making its decision, (e.g., photographs and correspondence), may be filed with the application. However, such evidence shall be subject to the provisions of Rule 4-102 herein.

RULE 2-102 SUBMISSION OF APPLICATIONS - DEADLINES

- A. Deadline for Applications other than Decisions on Alleged Errors or Reconsideration Requests. Applications for variances, special exceptions, expansions of non-conforming uses and special requests as specified in the Zoning Ordinance shall be filed by 4:30 p.m. the third Thursday of any month in order to be scheduled for the next available Public Hearing, which shall be no less than six weeks hence. All applications shall be filed with the Department of Planning and Zoning.
- 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 the written decision on which the appeal is based. The application must be filed with the Department of Planning and Zoning. The case will be scheduled on the first available Public Hearing agenda.

- C. Deadline for Applications for Reconsideration Requests: Applications for reconsideration requests shall be made within 15 days from the date of the Order that is the subject of the reconsideration request. Such applications shall be filed with the Department of Planning and Zoning.

RULE 2-103 AMENDMENT OF APPLICATIONS

- A. Non-Substantive Amendments. The Chairman or the Chairman's designee shall make the 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 Board of Appeals Planner/Administrator 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. The Chairman or the Chairman's designee shall make the 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 postpone the hearing and remand the amended application to the Board of Appeals Planner/Administrator for review. 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 Department of Planning and Zoning. 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 their non-profit status.

SECTION 3 - PRE-HEARING PROCEDURES

RULE 3-101 PUBLIC NOTICES

- A. Advertising. The Clerk to the Board 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 new case. It shall also contain a listing of cases continued from previous hearings. Each new 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 to the Board 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 shall also send a notice to each property owner listed on the "Affected Property Owners List" attached to each application. Such notice shall contain a description of the case including the applicants' and owners' names, the purpose of the appeal, and the 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, and a brief description of the regulations under which the application was filed. 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 Before the Board: For continued cases, Rule 4-101.H shall apply.
3. Notices for Cases Postponed Before the Board: For postponed cases, Rule 4-101.I 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 provided by the Department of Planning and Zoning on the property that is the subject of the Board of Appeals application. The sign shall display the date, place and time of the hearing, the case number, and a brief description of the request. The sign shall be posted within 15' 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 to the Board on the day

of the hearing stating that the posting requirements have been met. Affidavit forms are included with the application package.

2. Posting of Property for Continued Cases Before the Board. For continued cases before the Board Rule 4-101.H shall apply.
3. Posting of Property for Postponed Cases Before the Board. For postponed cases before the Board Rule 4-101.I shall apply.

RULE 3-102 STAFF SITE VISITS & REPORTS

- A. Site Visits. Prior to the scheduled public hearing, the Board of Appeals Planner/Administrator 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 Planner/Administrator 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 10 days prior to the hearing, or orally by the owner, applicant or the Planner/Administrator during the hearing. Postponements resulting from County administrative and/or clerical error do not require additional fees. Postponements granted at the applicant's request require repayment of application fees by the applicant prior to rescheduling the case. Postponed cases will be re-scheduled by the Board for the first available Public Hearing date after fees are paid.

RULE 3-104 COMMUNICATION WITH BOARD OF APPEALS MEMBERS

- A. 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. Any request for public information on a case shall be directed to the Clerk to the Board or to the Board of Appeals Planner/Administrator.

SECTION 4 - HEARINGS

RULE 4-101 GENERAL REQUIREMENTS

- A. Scheduling of Hearings. The Board's Clerk, in consultation with the Board and the Planner/Administrator, 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.
- 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 State Government Code Article Sections 10-501 through 10-512.
- D. Conduct of Hearing. The Chairman shall regulate the course of the hearing and shall rule upon procedural matters and objections made during the course of the hearing. The public is invited to attend Board of Appeals hearings. The individuals attending shall maintain order and refrain from disturbing the orderly process of the hearing. The Chairman may clear the hearing room of disruptive individuals, or recess the hearing. The Chairman 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 Chairman or the Clerk to the Board.
 - 2. Each person who testifies shall first give his or her name, address and occupation.
 - 3. The Chairman may set time limitations and otherwise limit testimony as described in 4-101.D above.
- F. Attendance of Witnesses. The Chairman of the Board of Appeals, or the acting chairman, may compel the attendance of witnesses.
- G. Order of Presentation. Each case shall be presented in the following order:

1. The Chairman 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 Chairman or Clerk to the Board.
4. The applicants shall present 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 his witnesses at any time during the presentation.
5. The Planner/Administrator shall present any relevant information next, including a Staff Report, if applicable, and may ask questions of the applicant and/or his witnesses at this time. The Board members or the Board's Counsel may ask questions of the Planner/Administrator 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 Chairman or Clerk to the Board and shall testify next. With the Chairman's permission, such persons may ask questions of the applicant and/or his witnesses at this time. The Board members or the Board's Counsel may ask questions of such persons at any time during their testimony.
6. Any petitions or correspondence pertaining to the request that were received prior to or during the hearing shall be entered into the record by the Chairman or the Clerk to the Board.
7. The applicant shall be provided time, after all testimony is heard, to respond to any comments made by persons testifying.
8. After all testimony is heard, the Board shall determine whether the information presented is sufficient for the Board to make a decision.
 - a. If the Board determines that the information presented at the hearing(s) is sufficient to make a decision on the request, the chairman 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 for

in order to obtain specific information from the applicant, Planning Staff, the Board's 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. The Board, upon receiving the additional information, 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 Planner/Administrator, 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 the Board has closed the record for the case.
- H. 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 to a hearing date specified by the Board. The advertising requirement for continued/deferred cases will be met by an abbreviated listing of such cases in the Board's Legal Notice (See 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.
- I. Postponed Cases. The Board has discretionary authority to postpone an advertised case for good cause shown, prior to hearing the case. Advertised cases that have been postponed by the Board may be rescheduled to the next available hearing date or to 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 to re-post the subject property.
- J. 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 probative evidence may be conveniently brought forth. The Board may exclude immaterial or unduly repetitious testimony or other non-probative evidence and may limit the number of witnesses when testimony is cumulative in nature.
- B. 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.
- C. 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. Each case shall be decided no later than 45 days after the Board closes the record for the case. 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.

When the Board has not rendered a decision on a case and 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 periods set forth above shall not begin until the record is closed (see Rule 4-101.G herein).

Cases that have been deferred, continued or postponed for a period of 6 months or longer, with no action during that time period, are considered closed. Such cases may be scheduled to be heard by the Board only

upon receipt of a new application and application fee as described in Rule 2.

- B. Voting. Two votes are required to approve an applicant's request. Failure to obtain two votes shall have the effect of a denial of the request.
- C. Mailing. The Clerk to the Board shall mail copies of the Order to the applicants, owners and their representatives, and any persons who testified or submitted correspondence concerning the case to the Board. Orders shall be mailed within one week after they are signed in accordance with Rule 5-102.E below.
- D. 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 Department of Planning and Zoning.

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 Planner/Administrator. The Planner/Administrator 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 Chairman of the Board of Appeals, entered by the Clerk to the Board, and dated with the date on which the Order is signed. The Order does not become final until signed by the Chairman.

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 notice or hearing, the Board's Clerk may modify any Order to correct a non-substantive clerical 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. 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/revise 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 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 make a brief response 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 Department of Planning and Zoning. 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 Board's Clerk. Transcripts will be prepared in accordance with County policy.

- B. Tapes: Audio tapes of the proceedings for any case are available through the Board's Clerk. Tapes will be prepared in accordance with County policy.

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 days, intermediate Saturdays, Sundays and holidays are counted, but if the period of time allowed is seven days or less, intermediate Saturdays, Sundays and holidays are not counted. The last day of the period so computed is included unless:

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

The act to be done is the filing of a paper with the Department of Planning and Zoning and the office of that Department on the last day of the period is not open, or it is closed for a part of the day, in which event the period runs until the end of the next day that is not a Saturday, Sunday or holiday, or a day on which 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.