

TOWN OF SYKESVILLE BOARD OF APPEALS RULES OF PROCEDURE

1. PURPOSE

These Rules of Procedure are adopted pursuant to § 180-106 of the Code of the Town of Sykesville to assist the Sykesville Board of Appeals in the orderly and efficient conduct of all matters that the Board considers by law so as to effectively exercise its powers and duties set for in the applicable sections of the Maryland Annotated Code, Land Use Article, and the Charter and Code of the Town of Sykesville, both as may be amended from time to time.

2. POLICY

It is the Policy of the Board of Appeals to preserve and promote fairness and public confidence and trust in all proceedings that the Board of Appeals conducts.

3. DEFINITIONS

“Application” or “Applications” shall include an application for a special exception or variance and an appeal of a decision of the Zoning Administrator.

“Board” shall refer to the Town of Sykesville Board of Appeals and consists of the Members.

“Member” shall mean one of three members appointed by the Mayor with the confirmation by the Town Council. Members shall serve three-year terms.

4. OFFICERS

The Board shall, at its first meeting of the year, elect a Chair and Vice-Chair. There is no limit to the number of consecutive years that a member may serve as chair or vice-chair.

The Chair or, in the Chair’s absence, the Vice-Chair, shall preside at all meetings and hearings of the Board. In the absence of an officer, the Member with the most current continuous Board of Appeals service shall preside. The presiding officer shall decide all points of order and procedure subject to these rules, unless otherwise directed by a majority of the Board, in which case the process outlined in the most recent version of Robert’s Rules of Order shall prevail.

The Board shall elect one of its members to fill the position of Chair or Vice-Chair if at the expiration of their term the member is not re-appointed to the Board or in the event of resignation or removal.

5. MEETINGS

Meetings of the Board of Appeals shall be held at the call of the Chair and at other times as the Board may determine. All public meetings of the Board shall be conducted in accordance with the Maryland Open Meetings Act and shall be open to the public, except that closed sessions may be held for the purposes set forth the Maryland Open Meetings Act and deliberations as permitted by law. Any meeting of the Board may be held virtually at the discretion of the Chair so long as all Members, applicants, staff, and the public have adequate notice and an opportunity to view the meeting.

The Chair, or in the Chair's absence, the Vice-Chair, may administer oaths and compel the attendance of witnesses. The Board shall make a recording of all proceedings with a contemporaneous written record showing the vote of each member on each question or the Member's absence or failure to vote. The recording of the Board's proceedings shall be kept and filed in the Town Clerk's Office and shall be a public record.

It shall be the duty of each Member to attend all meetings of the Board of Appeals. A Member is required to contact Town staff or the Chair or Vice-Chair, to notify them of a planned absence unless extenuating circumstances do not permit.

Members recusing themselves from a Board matter shall do so at the call of the matter and leaving the meeting for the time the matter is being considered. Members are encouraged to consult with the Town Attorney as to the propriety of their participation and vote on any matter which may involve an actual or perceived conflict of interest.

6. GENERAL REQUIREMENTS

The Board of Appeals meeting agenda shall be prepared by Town staff who will consult with the Chair on such matters of the agenda as may be appropriate. Applications and other matters shall be placed on the agenda of the Board of Appeals within a reasonable time following final staff review. Subject to direction of the Chair, Town staff shall conduct all correspondence of the Board, send out all notices required by these rules, attend all hearings of the Board and such other meetings of the Board, keep the official records, minutes, and transcripts, maintain the necessary files and indexes and be responsible for drafting resolutions and securing the signature of the Chair.

Applications shall be made on forms provided by the Town. If an applicant is not the owner of record of the property to which an application applies, at least one owner of record shall sign the application indicating consent to the application. Applications and other relevant materials submitted for Board of Appeals consideration shall be in digital form along with three (3) copies unless additional copies are requested by Town staff.

In fulfilling its legislative mandate, the Board of Appeals may exercise the following powers:

- a. Subject to the prohibitions on ex parte communications, hold conferences with parties and or their legal representatives to clarify issues and expedite full and fair handling of a case;

- b. On motion by any party or by the Board, dispose of procedural requests, including but not limited to the following motions: to amend, to consolidate petitions, to reopen the record of any case in order to receive additional evidence or information, to rehear decisions, or reconsider decisions;
- c. On motion by any party or by the Board, introduce into the record documentary or other evidence, provided that all parties are given reasonable notice;
- d. Ask parties to submit proposed findings of fact and memoranda of law;
- e. Require parties to provide additional information about an application;
- f. Waive minor procedural defects or errors that do not affect substantive rights of the parties in order to proceed on the merits;
- g. Take any action necessary to carry out the intent of the Zoning Ordinance; and
- h. Exercise all other powers included Article XVII, Chapter 180 of the Code of the Town of Sykesville.

7. FILING OF APPLICATIONS

All applications to the Board of Appeals shall be filed with the Zoning Administrator or designee on appropriate forms provided by the Town. No application shall be accepted by the Zoning Administrator for filing unless it contains complete and accurate information and is accompanied by the current filing fee for the application.

When the Board of Appeals finds that any information or documents are not sufficiently detailed to make a final decision, the Board may require additional information or documentation be provided.

Reports of expert witnesses for the applicant must be submitted with the application unless permission to file at a later date is granted by the Board of Appeals. Expert reports for all parties must be submitted no later than twenty (20) days before the public hearing.

In all matters before the Board of Appeals, documents required to be filed shall be available for review by all interested person.

An applicant may amend an application twenty (20) days or more prior to the hearing on an application without the consent of the Board of Appeals under the following circumstances:

- a. Amendments requested by any Town, County, or State Agency;
- b. Amendments which are consented to by all parties of record;

- c. Amendments to correct minor errors in the applicant's submission; or
- d. Amendments requested by the Board of Appeals during the hearing or at any time before the record is closed.

Any other amendments not specified above shall be filed only upon the consent of the Board of Appeals following a request to amend with due notice to all interested parties and an opportunity for other parties to respond to the request, as the Board of Appeals shall determine.

8. NOTICE OF HEARINGS

The Board of Appeals shall fix a reasonable time for hearing of an application. Notice of all hearings shall conform with the requirements of § 180-108.A. of the Code of the Town of Sykesville.

9. HEARINGS

It shall be the duty of the Board of Appeals to inquire fully into the facts of each case. In this respect, the Board shall have the authority to:

- a. Request the attendance of witnesses and submission of documents;
- b. Regulate the course of the hearing;
- c. Rule on offers of proof and receive relevant evidence;
- d. Exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence;
- e. Hold conferences for simplification of the issues by consent of the parties;
- f. Dispose of, or rule upon, procedural requests and order hearings consolidated or reopened; and
- g. Call, examine, and cross-examine witnesses and admit or deny into the record documentary or other evidence.

All testimony provided either as direct testimony or on cross-examination shall be given under oath. The Clerk shall administer the oath to any person proving testimony.

Any party may appear and be heard in person or by agent or attorney.

All evidence and exhibits shall be subject to admission into the record by the Board of Appeals. Evidence and exhibits shall be duly numbered, made a part of the record, and included in the case file. The Board of Appeals may require photographs or reproductions to be substituted in lieu of large or bulky exhibits.

The order of presentation of evidence shall be as follows, with examination by the Board of Appeals at any time:

- a. Presentation of the official record, notation of any objections to any part of the record, and other preliminary matters;
- b. Presentation of evidence and testimony by the applicant;
- c. Presentation of evidence and testimony of interested administrative officials and staff;
- d. Presentation of information and testimony by those in opposition to the applicant's request;
- e. Testimony by other interested persons or organizations;
- f. Rebuttal by the applicant;
- g. Formal receipt into evidence of the record by the Board of Appeals; and
- h. Closing statements by each side.

Cross examination of witnesses shall be permitted; however, questioning must be confined to the scope of the direct testimony of the witness. Repetitious questions and examination on irrelevant matters will not be permitted.

The applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact to be determined by the Board of Appeals.

The Chair, in their discretion, may impose reasonable time limitations on presentation of evidence and testimony at a hearing, or on the length of the hearing, in order to facilitate the orderly and expeditious conduct of the hearing.

A hearing may be continued or adjourned from time to time. If the time and place of the continued or adjourned hearing is publicly announced at the scheduled hearing, no further notice shall be required.

The Chair may require a group or organization to designate a spokesperson to coordinate and present testimony. The only person who may testify on behalf of the group or organization shall be the spokesperson.

Site visits by members of the Board of Appeals shall be permitted. Upon written request by any interested party filed with the Zoning Administrator no less than 10 days prior to the date of the scheduled hearing, the Board shall visit the specific property involved prior to the hearing. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

Postponement of a hearing may be granted subject to the following:

- a. Requests for postponement of a scheduled hearing shall be filed with the Zoning Administrator not less than 10 days prior to the date of the hearing and shall be accompanied by a sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at the discretion of the Chair.
- b. Requests for postponement filed later than 10 days prior to the date of a scheduled hearing shall, in addition to the above requirement, be supported by an affidavit of the party making the request or some other credible person. The grant of such request shall be at the discretion of the Board in cases of extreme hardship or upon good cause shown.
- c. The Board may, upon its own initiative, postpone a scheduled meeting at any time.

10. DECISIONS

Decisions of the Board of Appeals shall be made in accordance with the limitations, guides and standards set forth in § 180-109 of the Code of the Town of Sykesville.

The Board of Appeals shall render a decision within a reasonable time. All decisions of the Board of Appeals on any matter requiring a public hearing shall be by written resolution. Each resolution shall show, among any other required contents, the members participating, and their respective votes in the case. Any resolution adopted reflecting a decision on a special exception, variance or administrative appeal shall contain findings of fact and conclusions as to the legal issues supported by the evidence in the record.

Notification of a decision of the Board of Appeals shall be provided to all parties of record in the case.

Appeals of any decision of the Board of Appeals shall be pursuant to § 180-108.E. of the Code of the Town of Sykesville.

If an application is disapproved by the Board of Appeals, the Board shall take no further action on another application for substantially the same proposal, on the same premises, until after two years from the date of such disapproval. If an appeal to the Board is perfected and the public hearing date is set and duly advertised and properly posted and thereafter the applicant withdraws the appeal, the applicant shall be precluded from filing another application for substantially the same proposal on the same premises for one year from the date of the such disapproval.

11. RECONSIDERATION

The Board may reconsider its decision on an application where there is a clear showing that the action of the Board on the application did not conform to relevant law, these Rules, or that the action resulted from an irregularity or clerical error.

The Board may reconsider its decision on an application where there is new evidence and a clear showing that certain pertinent and significant new evidence relevant to the Board's decision on the application could not be reasonably have been discovered by an applicant in advance of the hearing before the Board and the applicant made a reasonable effort to discover the evidence in advance of the hearing.

In all cases, reconsideration shall occur no later than the Board's next meeting following the date when the original decision was made.

12. COMMUNICATION

The Board of Appeals shall not participate in or consider any ex-parte or private communication from any person, group or organization, whether oral or written, which may relate to the merits of any application pending before the Board.

Nothing contained herein shall preclude the Board of Appeals from obtaining any advice, counsel or assistance from counsel for the Board or Town staff, provided said counsel or staff member is not a party to or pending matter for which the advice, counsel or assistance is sought.

13. RULE CHANGES

The suspension of any rule of procedure shall require the unanimous concurrence of those members of the Board of Appeals present and voting.

Amendments to these rules of procedure may be introduced at any meeting and recorded in the minutes. The Board of Appeals will vote on any such amendments at a regular meeting with passage requiring the majority vote of the membership.

14. CONFLICT

Whenever any conflict occurs between the Annotated Code of Maryland and these Rules of Procedure, the Annotated Code of Maryland shall govern. In the event of a conflict between the Town of Sykesville Charter or Code and these Rules of Procedure, the Charter or Town Code shall govern.