

# **Rules of Practice and Procedure of the St. Mary's County Board of Appeals**

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# Rules of Practice and Procedure of the St. Mary's County Board of Appeals

## TITLE 1. IN GENERAL

### Rule 1-101. Scope.

The Rules of Practice and Procedure are applicable to cases and proceedings before the St. Mary's County Board of Appeals and shall apply to pending cases whenever practical and consistent with the requirements of due process. "Applicant" shall refer to an applicant for a variance or conditional use approval. "Appellant" shall refer to a party appealing a decision of an administrative officer or unit. "Board" shall refer to the St. Mary's County Board of Appeals. "County" shall refer to St. Mary's County Government.

### Rule 1-102. Officers.

The Board shall elect one of its members as Chair and one as Vice Chair at the pleasure of the Board. The Chair shall preside at all meetings of the Board, and in the Chair's absence the Vice Chair shall preside. In the absence of the Chair and the Vice Chair, a member designated by the remaining members of the Board shall act as Chair and shall preside with all the powers of the Chair.

### Rule 1-103. Meetings.

(a) **Regular Meetings.** Regular meetings of the Board shall be held monthly and at such other times as the Board may determine. At the beginning of each calendar year, the Board shall give written public notice of the schedule of its regular meetings, including their dates, times, and places.

(b) **Special or Rescheduled Meetings.** The Board shall provide supplemental written public notice of any special or rescheduled meeting at least 48 hours before the meeting. The notice shall include the agenda, date, time, and place of the meeting.

(c) **Methods of Providing Notice.** Notice of public hearings and meetings shall be in accordance with the St. Mary's County Open Meetings Act and Maryland Open Meetings Act.

(d) **Agenda.** The Agenda shall include all public hearings, any consideration of the report of a Hearing Examiner, and other business of the Board.

(e) **Quorum.** Three members of the Board shall constitute a quorum for the conduct of business.

(f) **Minutes.** The Board shall keep a contemporaneous written record of its proceedings, showing the vote, failure to vote, or absence of each member on each question, all of which shall be filed promptly among the records of the Board as a public record after approval by all Board members.

(g) **Participation in decision.** Only those members who have actually heard all the

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evidence and testimony in an appeal shall participate in the decision unless all parties to the appeal shall agree otherwise, except that the Chair of the hearing shall have the authority to permit a member to view the official video recording for any missed hearing or any missed portion of a hearing, as applicable, and participate in the decision. In no event shall a member be permitted to participate in a decision if that member misses and fails to first view the hearings on any appeal.

### **Rule 1-104. Administration.**

(a) **Variations and Conditional Uses.** The Director of the Department of Land Use and Growth Management shall assign personnel to process all correspondence of the Board, send out all notices required by these rules, keep the dockets and records of the Board's proceedings, compile all required records, maintain the necessary files and indexes, and perform such other duties as directed, concerning applications for Variations and Conditional Uses.

(b) **Appeals.** The Department of Land Use and Growth Management shall process notices of appeal, records of actions from which an appeal is taken, all correspondence of the Board, send out all notices required by these rules, keep the dockets and records of the Board's proceedings, compile all required records, and maintain the necessary files and indexes. An appeal shall be docketed in the name of the original applicant for the action from which the appeal is taken, note the name of the appellant in an appeal, and include a short description of the subject matter of the case and the number assigned to the case. A brief description of the property shall also be included.

### **Rule 1-105. Computation of Time.**

(a) **Generally.** Time must be computed as follows:

- (1) Do not count the day of the event that begins a time period (e.g. the day of a decision); and
- (2) Include the last day of a time period unless it falls on a Saturday, Sunday, or County holiday, or day on which the County is not open during its regular hours. In that case the time period ends on the next business day.
- (3) If the required time period is more than seven days, count as days Saturdays, Sundays, County holidays and days on which the County is not open during its regular hours. If the time period is seven days or fewer, do not count Saturdays, Sundays, County holidays, or days on which the County is not open during its regular hours.

(b) **Computation of Latest Day.** In determining the latest day for performance of an act which is required by these rules, by order of the Board, or otherwise, to be performed a prescribed number of days before a certain day, act, or event, all days prior thereto, including intervening Saturdays, Sundays, and legal holidays, are counted in the number of days so prescribed. The latest day is included in the determination unless it is a Saturday, Sunday, or legal holiday, in which event the latest day is the next preceding day which is not a Saturday, Sunday, or legal holiday.

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### **Rule 1-106. Appearance and Practice.**

(a) **Persons who may appear.** An individual may appear in the individual's own behalf or be represented by an agent; a member of a partnership may represent the partnership; a bona fide officer or representative of a corporation, trust or association may represent same; and an officer or employee of a political subdivision or body or department may represent same in any proceeding. A licensed professional engineer or land surveyor may represent an applicant for a variance or conditional use. A representative shall file with the Board a written authorization on a form prescribed by the Board to represent the applicant.

(b) **Attorneys.** A person, firm, or corporation may be represented in any proceeding by an attorney admitted to practice before the Court of Appeals of Maryland. An attorney who wishes to appear in any proceeding in a representative capacity which involves a hearing or an opportunity for a hearing shall file with the Board a written notice of appearance which includes the attorney's name, business address, telephone number, and the names and addresses of the persons represented by the attorney. No formal notice of appearance is necessary if the application or notice of appeal contains the required information.

### **Rule 1-107. Inspection and Copying.**

The record of a pending application for a variance or conditional use and any agency submissions may be inspected by any person at the Department of Land Use and Growth Management during business hours. The record of a pending appeal may be inspected by any person at the Department of Land Use and Growth Management during business hours. Any person may obtain a copy of all or part of the record of the appeal or application for a variance or conditional use and any submissions in accordance with the Maryland Public Information Act.

## **TITLE 2. COMMENCEMENT OF ACTION**

### **Rule 2-101. Parties.**

Any aggrieved person may commence an appeal as an appellant or become a party to pending appeal or application for a variance or conditional use as an intervener by filing a notice in the proceeding or appearing at a public hearing on the appeal or application and requesting to be designated as a party.

### **Rule 2-102. Appeals.**

(a) **Commencement; Time limit.** All appeals from orders or decisions from which an appeal is authorized by law shall be taken by the filing of a notice of appeal with the Department of Land Use and Growth Management and the administrative officer or unit from whose action the appeal is taken within 30 days after (1) the date of such order or decision if the appeal is taken by a

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person on whom written notice of the order or decision was served, or (2) the date on which any other aggrieved person knew or reasonably should have known of the order or decision, or (3) any other period prescribed by law or rule.

**(b) Notice of Appeal from administrative decisions.** In appeals from administrative decisions of County officials involving real property, the notice of appeal shall be on a form adopted by the Board and shall include the following:

- (1) the name and address of the appellant;
- (2) the name and address of any respondent (the applicant for the action from which the appeal is taken, if different from the appellant);
- (3) the street address or location (if no street address) of the subject property;
- (4) the map and parcel number of the subject property;
- (5) the control number assigned by the Department of Land Use and Growth Management;
- (6) the administrative action that is the subject of the appeal;
- (7) names and mailing addresses of owners of real property located within 200 feet of the property that is the subject of the appeal (as shown on Official Zoning Maps and contained in the records of the Maryland Department of Assessment and Taxation), including lands abutting any public or private rights-of-way or common areas located within 200 feet of the property that is the subject of the hearing;
- (8) a specific statement of the basis for the appeal;
- (9) a copy or other written evidence of the decision from which the appeal is taken.

**(c) Information to be provided to Board.** Any required information omitted from the Notice of Appeal shall be provided in writing to the Board through the Department of Land Use and Growth Management within 30 days of the date an appeal is filed. In a case where required information is not so provided, the Board may dismiss the appeal if such information is not submitted within a reasonable time prior to the hearing date.

**(d) Docket and Hearing Date.** Each Notice of Appeal filed in proper form shall be numbered, docketed, posted on the County's website after having been assigned a hearing date.

**(e) Service.** A copy of the complete Notice of Appeal shall be served by the appellant on the applicant (if different from the appellant) by first-class mailing, courier delivery or personal delivery. If service is made by mail, service is deemed made on the date of the postmark. If service is made by courier delivery, service is deemed made on the date of acceptance by the courier. The appellant shall file an affidavit setting forth the date and manner of service.

**(f) Notice of Hearing.** Notice of the hearing of an appeal shall be given by the Board by mailing, publication, posting on the County's website, and in accordance with Rule 1-103(c) and (d). All notices of the hearing shall state that the record of the appeal is available for inspection and copying at the Department of Land Use and Growth Management.

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(g) **Mailing.** Notice of the hearing shall be mailed by first-class mail upon assignment of a hearing date to:

- (1) an appellant and the appellant's attorney of record, if any, at the address(es) stated in the notice of appeal;
- (2) any respondent and any respondent's attorney of record, if any;
- (3) an owner of real property (each individual owner of a property if more than one) located within 200 feet of the property that is the subject of the appeal;
- (4) the County Attorney;
- (5) other parties of record, if any, and any persons who have filed a written request for notice in the proceeding;
- (6) a municipality if the hearing concerns land adjacent to its municipal boundaries; and
- (7) other interested parties as the Board may deem appropriate.

(h) **Publication.** Notice of the hearing of any appeal shall be published on two occasions. The publication shall occur at least 15 calendar days prior to the hearing and not less than two successive weeks prior to the hearing. A certificate of publication shall be filed prior to the opening of a hearing.

(i) **Posting on the Website.** Notice of the hearing shall be posted on the County's website prior to the hearing in accordance with the St. Mary's County Open Meetings Act and Maryland Open Meetings Act.

### Rule 2-103. Variances and Conditional Uses.

(a) **Application.** An application for a Variance or Conditional Use shall be filed with the Director of the Department of Land Use and Growth Management on a form adopted by the Board.

- (1) The application shall meet all Application Requirements published by the Director of the Department of Land Use and Growth Management prior to acceptance.
- (2) An application may be accepted only when accompanied by the fee set in §223 of the *Code of St. Mary's County, Maryland*.

(b) **Processing.** The Department of Land Use and Growth Management shall process an application as follows:

- (1) A completed application filed in proper form shall be numbered and docketed.
- (2) A copy of the completed application shall be transmitted to the following



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agency for review and written comments:

- (a) Critical Area Commission for the Chesapeake and Atlantic Coastal Bays
- (3) The Department of Land Use and Growth management may prepare and submit findings and recommendations after all agency comments have been submitted.
- (4) A copy of the application and all submissions shall be posted on the County's website and shall be provided to the applicant, each member of the Board, and the Office of the County Attorney.
- (5) The application shall be scheduled for a hearing and placed on the agenda of the Board.

### **Rule 2-104. Variances and Conditional Uses - Notice of Hearing.**

(a) **Generally.** Notice of the hearing on an application for a Variance or Conditional Use shall be given by mailing, publication and posting of the property in accordance with the Comprehensive Zoning Ordinance. All notices of the hearing shall state that the application and all submissions are available for inspection and copying at the Department of Land Use and Growth Management.

(b) **Mailing.** Notice of the hearing shall be mailed by the applicant to:

- (1) an owner of real property (each individual owner of a property if more than one) located within 200 feet of the property that is the subject of the appeal;
- (2) other parties of record, if any, and any persons who have filed a written request for notice in the proceeding;
- (3) a municipality if the hearing concerns land adjacent to its municipal boundaries; and
- (4) other interested parties as the Board may deem appropriate

(c) **Publication.** Notice of the hearing on any application shall be published by the Department of Land Use and Growth Management as required by the Comprehensive Zoning Ordinance. A certificate of publication shall be submitted to the Board prior to the opening of a hearing.

(d) **Posting on the Property.** Notice of the hearing shall be posted by the applicant on the property that is the subject of the application in a place conspicuous to the general public as required by the Comprehensive Zoning Ordinance.

(e) **Posting on the Website.** Notice of the hearing shall be posted on the County's website prior to the hearing in accordance with the St. Mary's County Open Meetings Act and Maryland Open Meetings Act.

(f) **Proof of Notice.** An applicant shall file with the Department of Land Use and Growth Management, at least ten (10) calendar days prior to the date of a hearing, evidence of

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any required mailings and an affidavit of any required posting on the property including a photograph of the notice as posted. Unless legally sufficient proof of notice is filed as required by this subsection, the scheduled hearing shall be postponed, and the applicant shall pay the cost of the publication of notice of a new hearing date. The evidence of mailing and affidavit shall be submitted to the Department of Land Use and Growth Management prior to the opening of a hearing and becomes part of the hearing record.

### TITLE 3. HEARING EXAMINER

#### Rule 3-101. Hearing Examiner.

(a) **Referral.** At any time prior to the introduction of evidence in a proceeding, the matter shall be referred to a Hearing Examiner at the request of the Board Chair, or the County Attorney, or the Director of the Department of Land Use and Growth Management.

(b) **Proceedings.** The hearing conducted by the Hearing Examiner shall constitute the public hearing required by law. After referral, a Hearing Examiner shall rule on all procedural matters, hear and receive evidence according to law and to the standards set forth in these Rules of Procedure of the St. Mary's Board of Appeals, make findings of fact, state conclusions of law, and recommend an action by the Board, and shall report such findings, conclusions, and recommendation to the Board. After referral, and until filing the report to the Board, all references to the Board, the Chair and members of the Board in Rules 1-103, 1-104, 4-101 through 4-104 and 5-101 through 105 shall be deemed to refer to the Hearing Examiner. A copy of the Hearing Examiner's report shall be served on the parties by the Board.

(c) **Record.** All proceedings conducted by the Hearing Examiner shall be recorded. All testimony and documentary evidence received by a Hearing Examiner shall be transmitted to the Board.

(d) **Exceptions.** Any party may file exceptions to the report of the Hearing Examiner within 15 days after the date of the mailing of the report to the parties. Exceptions shall include the following information:

- (1) the title of the case;
- (2) the name of the applicant or appellant;
- (3) the case number;
- (4) the date of the public hearing before the Hearing Examiner;
- (5) the date of the report;
- (6) a copy of the report; and
- (7) a specific statement of the basis for the exception.

(e) **Board Decision.** The Board, whether or not exceptions have been filed, may:



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- (1) adopt the findings and conclusions of the Hearing Examiner, or
- (2) adopt different findings or conclusions based on the record of proceedings before the Hearing Examiner, or
- (3) for good cause, hear the matter *de novo*. The Board shall enter an appropriate order.

(f) **Review of reports where applicant did not appear.** If the Board determines that the Hearing Examiner's recommendation was based on the failure of the applicant or appellant to appear either in person or by representation, the Board first shall determine if the recommendation of the Hearing Examiner to dismiss the application was proper. If the Board determines that the recommendation of the Hearing Examiner to dismiss the application or appeal was not proper, the Board may remand the matter to the Hearing Examiner or proceed to hear the case on its merits.

### TITLE 4. PREHEARING PROCEDURE

#### Rule 4-101. Other Pleadings.

No other pleadings or papers shall be required from the applicant or appellant or other party; but if filed, copies thereof shall be served on the parties or their attorney of record before the Board, and a certificate of service shall be affixed thereto. Any memorandum submitted by an attorney shall be filed at least 10 days prior to the hearing, unless otherwise directed by the Board.

#### Rule 4-102. Withdrawal.

(a) **Generally.** An applicant may withdraw an application at any time. An appellant may withdraw an appeal at any time within thirty days of the date of the order or decision being appealed. A withdrawal by an appellant shall be in writing and the Board shall mail a copy of the request to:

- (1) the Hearing Examiner, if any;
- (2) the Director of the Department of Land Use and Growth Management;
- (3) the County Attorney; and
- (4) all parties and attorneys of record.

(b) **Effect of Withdrawal.** A withdrawal by an appellant pursuant to subsection (a) shall extend by ten days the time within which an appeal may be taken by any other aggrieved person. The ten days begins the day after the day on which the Board mails the notice of withdrawal.

(c) **Withdrawal After 30 Days.** An appellant who seeks to withdraw an appeal at any time after expiration of time in which to file an appeal may do so if no objection to the withdrawal is made by any other party or any person to whom notice of the hearing on the appeal has been

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mailed, or if granted permission to withdraw by the Board upon good cause shown.

### Rule 4-103. Request for Postponement.

(a) **Generally.** Any party to a case may, on the record or in writing, request a postponement of a scheduled hearing. A request for postponement may not be granted except for good cause shown.

(b) **Form of Request; Decision.** A written request for postponement shall state in detail the reasons the postponement is desired. The request shall include a statement by the party making the request, agreeing to pay any additional expenses incurred if the postponement is granted, including re-advertising and other reasonable administrative costs as assessed by the Department of Land Use & Growth Management. Copies of all written requests shall be mailed to all parties and attorneys of record and to the County Attorney. The request for postponement shall be decided by the Chair.

(c) **Six Month Limit.** The Board shall hear a case within six months from the date of the filing thereof, unless the Board waives this requirement upon good cause shown.

### Rule 4-104. Prehearing Procedure.

(a) **Generally.** There shall be no prehearing procedure before the Board except as follows:

- (1) motion to dismiss an appeal or a party for lack of standing;
- (2) motion to dismiss an appeal for lack of jurisdiction;
- (3) request for postponement pursuant to Rule 4-103;
- (4) request for waiver of six-month hearing requirement pursuant to Rule 4-103;
- (5) request for withdrawal of an appeal pursuant to Rule 4-102; or
- (6) pre-hearing conference at the direction of a Hearing Examiner.

(b) **Ex Parte Communications.** A party, attorney, spokesperson, or representative of any party or any other person may not communicate *ex parte* or confer privately with any member of the Board concerning any case. A member of the Board may not communicate with any party, attorney (other than the legal advisor to the Board), spokesperson or representative of any interested person, or other person outside of the hearing room concerning any case until after the Board is divested of jurisdiction in the case.

### Rule 4-105. Depositions and Discovery.

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There shall be no depositions or discovery, unless ordered by the Board.

### TITLE 5. HEARINGS

#### Rule 5-101. Conduct of Hearings.

(a) **Generally.** All hearings before the Board shall be public. No hearing shall be private even though all parties agree. All witnesses shall testify under oath administered by the Chair, acting Chair or other person legally qualified to administer oaths. All persons attending the meeting who decline to testify may sign the witness list and thereby be provided with notice of all future proceedings involving the case.

(b) **Record; Stenographer and Transcripts.** The County shall provide for the audio-visual recording of all proceedings. Anyone desiring a copy of the proceedings or a transcript of the testimony may obtain a copy from the official recorder or stenographer and shall bear the full cost. The County is not required to furnish a recorder or stenographer during a site visit conducted pursuant to subsection (g).

(c) **Continuance.** A continuance, if requested by any party, may be granted by majority vote of the Board for good cause shown. Unless the proceeding is continued to a time and place announced on the record at the time the matter is continued, and in any event if a case is continued for more than sixty days, the case shall be re-advertised at the sole expense of the party requesting the continuance.

(d) **Recess.** A hearing may be recessed from time to time for good cause shown and if the time and place of the resumption of the hearing is announced publicly. No further notice of the recessed hearing shall be required.

(e) **Hearing Procedures.** The Chair shall regulate the course of the hearing and shall rule upon procedural matters and objections made during the course of the hearing. Counsel to the Board shall be present at all hearings, other than hearings conducted by a Hearing Examiner, to advise the Board on legal and procedural issues.

#### (f) **Presentation of Evidence.**

- (1) Appeals. Evidence at the public hearing in an appeal shall be presented first by the appellant(s) and witnesses called by the appellant(s), then by the applicant(s) (if different from the appellant(s)) and witnesses called by the applicant(s), then by any intervener(s) supporting the appeal, then by any intervener(s) opposing the appeal, then by any person(s) supporting the appeal, then by any person(s) in opposition to the appeal, and lastly in

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rebuttal by the appellant(s) and the intervener(s) supporting the appeal, unless otherwise directed by the Board. There shall be no other presentation of evidence unless requested by the Board.

- (2) Variances and Conditional Uses. Evidence at the public hearing on an application for a variance or conditional use shall be presented first by the Department of Land Use and Growth Management, then by the applicant(s) and witnesses called by the applicant(s), then by any person(s) supporting the application, then by any person(s) in opposition to the application, and lastly in rebuttal by the applicant(s), unless otherwise directed by the Board.

(g) **Site Visits.** Board members may visit the site which is the subject of the application or appeal only in accordance with the St. Mary's County Open Meetings Act and Maryland Open Meetings Act. Parties and their representatives may be present to observe, but no testimony may be taken. The failure of a party or representative to be present at the time and place designated for the site visit shall constitute a waiver of the right to be present. The parties or their representatives are prohibited from engaging in any discussion with Board members at the site visit. Board members are prohibited from engaging in any discussion with other members of the Board, or the parties or their representatives at the site visit.

### **Rule 5-102. Disqualification of Board Members.**

(a) **Disqualification.** A member of the Board may not participate in any matter or proceeding before the Board, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to the member's knowledge, the member or the member's spouse, or any relative of the member or the member's spouse within the third degree of consanguinity, or the spouse of any such relative, has an interest therein as that term is defined in the St. Mary's County Public Ethics Ordinance or if any of the following is a party thereto:

- (1) any business entity in which the member has a direct financial interest as that term is defined in the St. Mary's County Public Ethics Ordinance of which the member may reasonably be expected to know;

- (2) any business entity of which the member is an officer, director, trustee, partner, or employee, or in which the member knows any of the above-listed relatives has such interest;

- (3) any person or business entity with which the member or, to the member's knowledge, any of the above-listed relatives is negotiating or has any arrangement concerning prospective employment;

- (4) any person or business entity which is a party to an existing contract (including employment) with the member or which the member knows is a party to a contract with any of the above-listed relatives, if the contract could reasonably be expected to result in a conflict

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between the private interests of the member and the member's official County duties;

(5) any entity, either engaged in a transaction with the County or doing business with the County, in which a direct financial interest is owned by another entity in which the member or any of the above-listed relatives has a direct financial interest if the member may reasonably be expected to know of both financial interests; and

(6) any business entity which the member knows is the member's creditor or obligee, or that any of the above-listed relatives, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the member or any of the above-named relatives.

**(b) Disclosure of Ex Parte Communications or Special Knowledge.** A member of the Board shall reveal on the record any *ex parte* communication or special knowledge concerning a matter before the Board.

**(c) Disqualification.** A member of the Board may choose to determine his or her disqualification for bias, conflict of interest, or for other good cause. Upon doing so, that member shall be prohibited from participating in any further proceedings relating to the case. If a Board member's participation in the case is challenged by a party to the case for alleged bias, conflict of interest, or other good cause, and if the member declines to disqualify himself or herself, the remaining Board members participating in the case and the alternate member shall decide by majority vote whether or not the member shall be disqualified.

### Rule 5-103. Subpoenas.

**(a) Powers of the Board.** The Board shall have the power to issue, in its discretion, subpoenas to compel the appearance of witnesses, and to require the production of documentary or other tangible evidence, at a proceeding.

**(b) Issuance.** The Board may cause subpoenas and subpoenas *duces tecum* to be issued upon its own motion, or upon the application of any party to any case; but any such application shall be in writing and shall set forth the persons, books, papers or other documents to be produced and a general statement as to the purpose of the subpoena.

**(c) Procedures.** The party requesting a subpoena shall be responsible for service of the subpoena and payment of any fee for service imposed by the Sheriff or third party.

### Rule 5-104. Evidence.

**(a) Generally.** The Chair may admit evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The Chair shall give effect to the rules of privilege recognized by law. The Chair may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

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(b) **Documentary evidence.** Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. Exhibits and plats admitted into evidence may not be mounted and shall be folded to a maximum size of 9 inches by 14 inches. An exact duplicate of the exhibit may be mounted and used for presentation. A witness testifying from or concerning an exhibit shall refer to the Exhibit Number.

(c) **Cross-Examination.** The parties shall have the opportunity to cross-examine witnesses. The Chair may permit a representative or representatives of persons supporting or in opposition the opportunity to conduct cross-examination.

(d) **Authority to Testify.** The Chair may question witnesses testifying as representatives of associations as to their authorization to testify on behalf of the association and may permit cross-examination as to the authorization by parties or representatives of parties.

(e) **Expert Witnesses.** The Chair may admit the testimony of a witness on the basis that the testimony, in the form of an opinion or otherwise, will assist the Board in understanding evidence or determining a fact at issue. Formal qualification as an expert shall not be required. However, in making the decision to admit testimony, the Chair shall consider (1) whether the witness is qualified as an expert by knowledge, skill, experience, training or education, (2) the appropriateness of the testimony for the particular case, and (3) whether sufficient facts exist to support the testimony.

(f) **Referral to the Board.** The Chair may refer any ruling for a majority vote by the members of the Board.

### **Rule 5-105. Findings and Conclusions.**

(a) **Generally.** Within sixty days after the termination of the hearing, the Board shall prepare and file in the proceedings a succinct written order, including its findings and conclusions. If the Board determines that more than sixty days are required, the Board shall so notify the parties. For purposes of this subsection, a hearing shall be considered terminated upon the closing of testimony, the conducting of an on-site inspection, or the submission of any final items of evidence or written arguments pursuant to an order of the Board, whichever shall occur last. The Board's decision shall rest entirely upon the pleadings and the evidence.

(b) **Revisions and Corrections.** At any time within thirty days after the filing of the order, and in the absence of an appeal to the Circuit Court for St. Mary's County, the Board may revise and submit a written order to correct clerical or other errors of form, providing such corrections make no change of substance in the order. The revised order shall be furnished to all parties and attorneys of record.

(c) **Reconsideration.** Upon motion by a party filed within thirty days after the filing of the order, and in the absence of an appeal to the Circuit Court for St. Mary's County, the Board may, by a majority vote of the members of the Board, reconsider the Board's decision and amend or alter its decision and order, remand the matter to a Hearing Examiner for a new



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hearing, or order a new hearing before the Board. A new hearing may include matters of fact, arguments of law, or both, at the discretion of the Board.

(d) **Copies of Decisions.** The Board shall furnish copies of all orders and opinions to all parties to the proceedings and attorneys of record, and to the Critical Area Commission if the hearing concerns land located in the Critical Areas. Any opinions rendered by the Board shall include findings of fact and conclusions of law reached by the Board. Any orders rendered by the Board shall be approved as to form by Counsel to the Board.

### TITLE 6. JUDICIAL REVIEW

#### Rule 6-101. Judicial Review of Decisions of the Board.

All petitions for judicial review of decisions of the Board shall be in accordance with the provisions of the Maryland Rules of Procedure. The Office of the County Attorney shall give the required notice of the appeal, file the certificate of compliance and transmit the record in accordance with the provisions of Maryland Rules of Procedure.

Adopted: December 17, 2020

  
George A. Hayden, Chair

Approved as to form and legal sufficiency:

 1.13.21  
David A. Weiskopf, County Attorney