

## Board of Appeals Frequently Asked Questions

The following Frequently Asked Questions focuses on concerns citizens coming before the Board of Appeals should be aware of before filing an appeal or being a party to an appeal before the Anne Arundel County Board of Appeals. They are points of interest from observations at Board hearings and in no way should be considered legal advice. One should seek legal counsel for information concerning one's particular circumstances.

- **What is the Board of Appeals?**

- The Board of Appeals is a quasi-judicial body that hears appeals from the decisions of the Administrative Hearing Officer and other County agencies.

- **What laws govern the Board of Appeals?**

- The Anne Arundel County Code contains most of the laws that govern the Board of Appeals. The Board of Appeals' Rules of Practice and Procedure can be found in Appendix B of the Anne Arundel County Code.
- The Maryland Code and the Code of Maryland Regulations are also applicable.
- The applicable laws and regulations can be found online at the following web addresses:
  - Anne Arundel County Code Index -  
[http://library.amlegal.com/nxt/gateway.dll/Maryland/annearundelco\\_md/annearundelcountycode2005?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:annearundelco\\_md](http://library.amlegal.com/nxt/gateway.dll/Maryland/annearundelco_md/annearundelcountycode2005?f=templates$fn=default.htm$3.0$vid=amlegal:annearundelco_md)
  - Maryland Code—  
[http://mgaleg.maryland.gov/2018RS/Statute\\_Web/glg/glg.pdf](http://mgaleg.maryland.gov/2018RS/Statute_Web/glg/glg.pdf)
  - Code of Maryland Regulations (COMAR)—  
[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/27\\_Chapters.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/27_Chapters.aspx)

- **What information is available on the Board of Appeals website?**

- The Board's website is located at: <http://www.aacounty.org/boards-and-commissions/board-of-appeals/>

- Mailing Address: Arundel Center, 44 Calvert Street, Room 160, P.O. Box 2700, Annapolis, MD 21404
- Phone Number: 410-222-1119
- Hours of Operation: 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.
- The hearing schedule for the Board of Appeals.
- Instructions on how to file an appeal to the Board of Appeals.
- A Notice of Appeal form.
- The Rules of Practice and Procedure of the Board of Appeals.
- A list of Current Members of the Board of Appeals.
- Recent Board opinions
- Meeting minutes

- **How is an appeal filed with the Board of Appeals?**

- Instructions on how to file an appeal can be found on the Board's website or by calling the Board directly at 410-222-1119.
- Two clerks are available to accept appeals, answer questions, and schedule hearings. They cannot provide legal advice regarding any appeal. They do not provide document copying or other administrative services to the public.
- The clerks publish hearing notifications in the Gazette and Capital newspapers, and on the County's website, so the general public is aware of an appeal. This is done for two consecutive weeks in advance of a hearing.
- The Board's files are open to the public, but please schedule an appointment to view files to ensure file and staff availability.
- Hearings are usually scheduled three times per week: on Tuesday at 6:30 PM, Wednesday at 3:30 PM, and Thursday at 5:30 PM. Only one case is heard at each hearing. Additional hearings may be scheduled depending on the Board's workload. Board hearing schedules can change, but parties of record to the appeal will be notified accordingly.
- Hearings are held in the Anne Arundel Center at 44 Calvert Street, Annapolis, MD 21401 in the County Council Chambers unless other business is being conducted there. Then, hearings are held in Room 160.
- The Board meets for approximately two hours per hearing.

- **What is administrative information?**
  - This term includes the list of property owners and mailing addresses within 175 feet of the subject property, Councilmanic District number, copies of permits and the address and description of the property. This information must be submitted within 30 calendar days of filing the appeal.
  - This information is not required for Personnel cases, Animal Control, or appeals from the Administrative Hearing Officer (as it is included in the file transferred from the Administrative Hearing Office).
  
- **Who can appeal to the Board of Appeals?**
  - “A person aggrieved by a decision of the Administrative Hearing Officer who was a party to the proceedings may appeal the decision to the Board of Appeals.” Anne Arundel County Code § 3-1-104(a).
  - The Office of Planning and Zoning can also appeal a decision to the Board of Appeals. See Anne Arundel County Code § 3-1-104(b).
  - “A person aggrieved by, or an officer, department, board, commission, or agency of the County affected by, any decision of an officer or an employee of the executive branch of the County government.” Anne Arundel County Code § 3-1-104(c).
  
- **What matters can be heard by the Board of Appeals?**
  - The Board of Appeals hears appeals from decisions of County agencies, including decisions from the Administrative Hearing Officer.
  - This Board does not hear property tax appeals. The Property Tax Appeals Board is a separate State department and can be reached at 410-974-2374.
  - Hearings before the Board of Appeals are “de novo” – Latin for anew; afresh; again; from the beginning. The Board members have no knowledge of the case prior to the hearing. Anything that transpired or took place before the Administrative Hearing Officer, Personnel, Planning & Zoning, Animal Control, or other County agency is not automatically presented to the Board for the applicant’s appeal. The applicant and/or protestant, even a County representative, has to present their case anew.

- **Who will be present at the hearing?**
  - In addition to the Board Members, the Clerk to the Board, the Board's Counsel, and the court reporter. The County will usually have at least one representative at the hearing, and anyone who is in favor of or against the appeal may be present, with counsel representing any of the above.
  
- **What is the order of presentation at a hearing?**
  - Only one case is heard at each hearing.
  - Generally, the hearing will begin with the parties' opening statements, unless opening statements are waived. The Petitioner has the opportunity to present his/her case, first. Then, Protestants of record present their case. Next, the County presents its position. Any audience members, who have not previously testified speak next. After the audience is finished, the Petitioner is permitted to present rebuttal. The hearings concluded with closing argument by all parties to the appeal, in order of presentation.
  - The Board may designate a different order of presentation. Postponement and withdrawal requests and any motions, such as motions to dismiss, are typically heard first.
  - Each party is given the opportunity to cross examine opposing witnesses regarding the testimony given and evidence presented during the hearing.
  
- **How long does it take for the Board of Appeals to make a decision on a case?**
  - Generally, the Board does not render decisions at the hearing.
  - The Board of Appeals will render a written opinion within 60 days of the date of the last hearing on a case, site visit or written closing argument, whichever occurs last, unless additional time becomes necessary. The Clerk to the Board of Appeals will send out written notice if additional time is needed.
  
- **Can I get a copy of a Board of Appeals decision?**
  - Yes, the Board's decisions are sent out to parties who sign in at the hearing. If an individual did not attend the hearing or failed to sign in, decisions are available at the Board's office for \$.50 per page or sent by email. Recent Board decisions are available on the Board's website.

- **How much does it cost to file an appeal?**
  - It depends on the type of appeal. Generally, the cost of an appeal is ranges from \$250.00 to \$1,000.00<sup>1</sup>.
- **Can I have witnesses to substantiate my appeal?**
  - Parties may have witnesses to support their case. These witnesses will present sworn testimony and can be questioned or cross-examined by the parties and Board Members.
  - Members of the public will also have an opportunity to have a say on a particular case, and they too may be cross-examined after their testimony.
  - All witnesses will be required to provide their names, addresses, email addresses, and identify themselves for the record.
  - It is very common for parties to present expert witnesses to meet the burden of proof in the case.
- **Is legal counsel required to appeal a case?**
  - In view of the cost to appeal and possible costly ramifications of the Board's decision, one may want to seek legal counsel to represent them before the Board.
  - Legal counsel is not required, however.
- **Is it possible to attend a hearing before my case comes before the Board?**
  - Yes, hearings are open to the public. If you have or are considering filing an appeal or are simply interested in a case, we welcome you to to attend a hearing.
  - To make certain that the Board is conducting a scheduled hearing you wish to attend, you may call the Board's office to confirm that the matter is proceeding.
  - Board hearings, while formal, are more relaxed than a court, and there is no "discovery"<sup>2</sup> from a legal sense.

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<sup>1</sup> Appendix B, Rule 2-103

<sup>2</sup> Discovery: The entire efforts of a party to a lawsuit and his/her/its attorneys to obtain information before trial through demands for production of documents, depositions of parties and potential witnesses, written interrogatories (questions and answers written under oath), written requests for

- Please do not bring food or drink to a hearing. All electronic devices must be turned off or silent during the hearing.
- **How much time do I have to submit an appeal?**
  - Appeals may be filed within thirty (30) calendar days (not business days) of the date of the offending decision in most cases (see Board Rules). After thirty (30) days, the Board no longer has jurisdiction over the subject matter of the appeal. Weekends are included in the 30-day count. It is the responsibility of the person filing the appeal to check the County Code for the filing deadline concerning their appeal.
- **What do I need to bring to a hearing?**
  - You will need to bring with you all relevant documentation regarding your appeal that would be useful to the Board in making its decision.
  - Familiarize yourself with the regulations governing your type of appeal and be ready to show how your request meets those regulations or how the applicant's request does not meet those regulations.
  - Please organize your case with proper papers, times and dates of events, and any other information that you would like to present to the Board. Keep in mind that material that is not relevant to the proceedings may not be admissible.
  - Timelines of events of the case can be very useful – that is from the beginning of the problem or process until the time the case is heard before the Board. What happened, when did it happen (or not happen in some cases), where did it happen, who was involved (specific names of individuals), how did it happen, why the applicant thinks it did or did not happen, surveys of the property, etc. is very useful in processing a case.
- **Do the Board Members conduct a site visit of the property?**
  - Generally, the Board Members will conduct a site visit of the property that is the subject of the appeal. No one is permitted to communicate with Board Members during the site visit.

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admissions of fact, examination of the scene and the petitions and motions employed to enforce discovery rights.

## **Zoning Appeals**

### **What is a variance?**

- A variance is a modification of the specific requirements of the Anne Arundel County Zoning Ordinance relating to the location and/or size of a structure or use.

### **What is a rezoning?**

- It is a request to change the zone of a property from one district to another, i.e. from the R1-Residential District to the R2-Residential District or from the R2-Residential District to the C1-Commercial District.

### **What is a Critical Area Reclassification or Declassification?**

- It is a request to change the Critical Area land use classification(s) of a parcel of land to another Critical Area land use classification(s) or remove the property from the Critical Area. There are three Critical Area classifications: IDA-Intensely Developed Area, LDA-Limited Development Area and RCA-Resource Conservation Area.

### **What is a special exception?**

- A special exception is a use permitted within a zoning district, but subject to certain, specific conditions, i.e., the location, nature, height of building, wall or fence will be compatible with appropriate and orderly development of the district in which it is located.

### **What is a Non-Conforming Use?**

Typically, it is a use that was permitted by the zoning ordinance when it came into existence, but has since become prohibited under a subsequent zoning ordinance.

- **Additional information regarding special exceptions, variances, zoning, and non-conforming use can be found at the following websites?**
- <http://www.aacounty.org/services-and-programs/apply-for-a-special-exception> for Special Exception Process
- <http://www.aacounty.org/services-and-programs/apply-for-a-variance> for Variance Process

- <http://www.aacounty.org/services-and-programs/apply-for-rezoning> for Rezoning Process
- <http://www.aacounty.org/services-and-programs/apply-for-a-critical-area-reclassification> for Critical Area Reclassification and Declassification Process
- <http://www.aacounty.org/services-and-programs/apply-for-non-conforming-use-registration> for Non-Conforming Use Registration
- <http://www.aacounty.org/services-and-programs/apply-for-a-twenty-year-registered-use> or Twenty-Year Registered Use

*For questions regarding zoning issues, please contact the Office of Planning and Zoning, directly at 410-222-7437.*

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