



# Howard County Board of Appeals

George Howard Building  
3430 Court House Drive  
Ellicott City, Maryland 21043-4392

## MINUTES April 3, 2025 WORK SESSION Hybrid Hearing (CVG Room and Webex)

### Board Members Present:

Gene Ryan, Chair  
Lynn Foehrkolb, Vice Chair  
Robbyn Harris  
Felita Phillips

### Staff:

Kel Berg  
Michelle Harrod  
Barry Sanders  
Nick Rinehart  
Kiasten Miller

Call to order at: 9:36 a.m.

### Administrative Matters

Approval of Work Session Meeting Minutes – March 27, 2025

Motion – Robbyn Harris, 2<sup>nd</sup> Lynn Foehrkolb

*Unanimously approved. The motion passed.*

Approval of Closed Meeting Minutes – March 27, 2025

Motion – Lynn Foehrkolb, 2<sup>nd</sup> Felita Phillips

*Unanimously approved. The motion passed.*

## **Meeting Overview**

The Board of Appeals is convening to discuss the Board of Appeals administrative practices, procedures, and policies consistent with the Howard County Charter, Article V. The Board continued to review proposed changes/questions from Office of Law, and from citizens who attended the Public Hearing on January 30, 2025.

## **Preliminary Matters**

- The Board unanimously agreed that a document containing the proposed changes and revisions to the proposed Rules of Procedure will be submitted to the County Council.
- The Board reviewed and agreed on the proposed changes from the March 27, 2025 Work Session.

## **Proposed Rule Additions**

Add to Rule 7.0 – Work Session Guidelines

*Decision: Accept*

Amend to Rule 6.0 Cases – Page 30, line 3 – strike “land use” text

*Decision: Accept*

Add to Rule 1.0 Organization – language taken from Charter Article V. Section 502 & 16.305

*Decision: Accept*

Add to Rule 5.0 Meetings and Hearings – language taken from Section 16.302

*Decision: Accept*

Amend to Rule 5.0 Meetings and Hearings – Page 25, line 4 add language

*Decision: Accept*

Amend to Rule 6.0 Cases – Page 29, line 15 – change and add language

*Decision: Accept*

## **Proposed Howard County Code Revisions**

The Board agreed to make a reference that the following are Howard County Code changes in the proposed Rules of Procedure.

Section 3.101. Amendments to the International Building Code, 2021 Edition – strike “Hearing Examiner” references

*Decision: Accept*

Section 3.220. Appeal of decision to revoke, deny or suspend a permit – strike “Hearing Examiner”

*Decision: Accept*

Section 3.304. On-site utility contractor's license – strike “Hearing Examiner”

*Decision: Accept*

Section 3.700. Howard County Property Maintenance Code for Rental Housing – strike “Hearing Examiner”

*Decision: Accept*

Section 14.904. Appeal – strike “Hearing Examiner” and add “Board of Appeals”

*Decision: Accept*

Section 15.503. Agricultural Preservation Board – strike “Hearing Examiner” and add “Board of Appeals”

*Decision: Accept*

Section 16.301A. Training – strike section

*Decision: Accept*

Section 16.302. Jurisdiction of Hearing Examiner – strike and revise section

*Decision: Accept*

Section 16.303. Hearing examiner procedures – strike section

*Decision: Accept*

Section 16.304. Appeal to Board of Appeals – strike section

*Decision: Accept*

Section 16.305. Terms of service – strike section

*Decision: Accept*

Section 16.306. Termination of service – add “Board of Appeals Hearing Examiner” to title and add “the” in subsection (a)

*Decision: Accept*

Section 16.307. Enforcement – add “Alternatively”

*Decision: Accept*

Section 16.606. Powers of the Commission – strike “Hearing Examiner” and add “Board of Appeals”

*Decision: Accept*

Section 16.801. The Department of Planning and Zoning – strike and revise section. Add “packages” and “applications” and strike “petitions” and “Hearing Examiner”

*Decision: Accept*

Section 16.1604. Authority of the Board of Appeals – strike “Hearing Examiner” from title and text and strike subsection (b)

*Decision: Accept*

Section 16.1605. Hearing – strike section

*Decision: Accept*

Section 16.1607. Final order – strike section

*Decision: Accept*

Section 16.1608. Civil fines – strike “Hearing Examiner” and add “Board of Appeals”

*Decision: Accept*

Section 16.1609. Appeal to the Board of Appeals – strike subsection (a)

*Decision: Accept*

Section 16.1610. Security – strike section

*Decision: Accept*

Section 16.1611. Failure to comply with a final order – strike subsection (a) and strike “section 2.211 of” in subsection (b)

*Decision: Accept*

Section 16.1612. County to secure compliance – strike “Hearing Examiner” and add “Board of Appeals” and strike subsection (a)(4)

*Decision: Accept*

Section 16.1613. Removal of signs and posters – strike “Hearing Examiner” and add “Board of Appeals”

*Decision: Accept*

## **Recess**

### **Continuation of Review of Office of Law Feedback**

Line Item #5 – Page 4, line 17 – Definition of “Board of Appeals Legal Advisor”

*Decision: Table*

Line Item #11 – Page 13, line 14 – Conflict with Code section 16.801(c)(7)

*Decision: Leave language in*

Line Item #12 – Page 15, lines 4-22 to Page 16, lines 1-10 – Discuss position descriptions and terminology

*Decision: Strike first sentence, table*

Line Item #14 – Page 17, lines 15-16 – Should update Title 16 necessitated by the final Board rules

*Decision: Table*

## **Recess**

### **Continuation of Review of Stuart Kohn's Public Feedback**

Line Item #26 – Page 26, lines 1-2 – Delete these two lines as this edit should apply to all parties

*Decision: strike "opposing a petition"*

Line Item #27 – Page 26, line 7 – Add a (.) after the word "recessed" and delete "unless a continuation date was previously noticed"

*Decision: Reject, capitalize "Official"*

Line Item #28 – Page 26, lines 7-8 – Don't understand "It is unnecessary to repost a property following the completion of an initial session"

*Decision: Answered (no action needed)*

Line Item #29 – Page 28, line 20 – The two main categories mentioned are not described

*Decision: Reject*

Line Item #30 – Page 28, line 21 – The two subcategories are not defined

*Decision: Reject*

Line Item #31 – Page 30, line 14 – Define "administrative official"

*Decision: Reject*

Line Item #32 – Page 30, line 15 – Question: what are the "two subcategories"

*Decision: Answered (no action needed)*

Line Item #33 – Page 31, line 17 – After the word "person" add the words "or virtually"

*Decision: Reject*

Line Item #34 – Page 34, lines 5-7 – The cost of the transcript should be defined as "x" per page

*Decision: Reject*

Line Item #35 – Page 35, lines 4-5 – Question: what does this mean?

*Decision: Answered (no action needed)*

Line Item #36 – Page 35, line 16 – Question: who is the "Presiding official"? It needs to be defined in the Appendix under Definitions

*Decision: Reject*

Line Item #37 – Page 35, lines 19-20 – Question: by remaining seated how does the party provide 10 hard copies to the Board Administrator

*Decision: Answered (no action needed)*

Line Item #38 – Page 35, line 21 – Delete “are encouraged” and add “shall”

*Decision: Reject*

Line Item #39 – Page 37, line 14 – Change “may” to “shall”, delete “any time after 10 business days” and replace with “immediately or rule at the next hearing”

*Decision: Reject*

Line Item #40 – Page 37, line 20 – Add “The Board shall not hear any appeals of motions derived from the Hearing Examiner until the final decision of any case heard by the BOA is finalized with a Decision and Order by the Hearing Examiner”

*Decision: Reject*

Line Item #41 – Page 37, line 23 – Delete the word “or” and change to “and”

*Decision: Reject*

Line Item #42 – Page 38, lines 13-14 – Change “Presiding Official” to “Chairperson”

*Decision: Reject*

Line Item #43 – Page 38, line 18 – After the word “independently” change to “with the aforementioned rights as the spokesperson”

*Decision: Reject*

Line Item #44 – Page 39, line 6 Rule 13 – Comment: like that you took our suggestion about not allowing the filing of subpoenas - 21 days before the Hearing and 14 days to issue as stated in the previous Rules of Procedure

*Decision: Answered (no action needed)*

Line Item #47 – Page 40, line 13 – Change “may” to “shall”

*Decision: Reject*

Line Item #48 – Page 40, line 17 – “Presiding Official” needs to be defined

*Decision: Reject*

Line Item #49 – Page 40, line 21 – Change “may” to “shall”

*Decision: Reject*

Line Item #50 – Page 41, lines 17-18 – “Presiding Official” needs to be defined

*Decision: Reject*

Line Item #51 – Page 42, line 1 – After the word “has” add “been sworn in via the Oath as described in Rule 15” of this document

*Decision: Reject*

Line Item #52 – Page 42, lines 10-11 – Should be in reverse order  
*Decision: strike “by opposing parties”*

Line Item #53 – Page 42, line 14 – After the word “Solicitor” add “only when asked by a Board member for clarity are requesting legal advice”  
*Decision: Reject*

Line Item #54 – Page 43, line 8 – After the word “Appeals” add “closes the case and”  
*Decision: Reject*

Line Item #55 – Page 45, line 15 – Change the word “may” to “shall”  
*Decision: Reject*

Line Item #56 – Page 45, line 17 – Change the word “may” to “shall”  
*Decision: Reject*

Line Item #57 – Page 47, lines 18-21 & Page 48, lines 1-6 – Question: why should an “Extension” be permitted  
*Decision: Answered (no action needed)*

Line Item #58 – Page 48, line 22 – After the words “file a” add “written”  
*Decision: Reject*

Line Item #59 – Page 51, line 1 – Move “1.4 Authorized instructor” after line 6 to alphabetize  
*Decision: Accept*

Line Item #60 – Page 51, lines 10-12 – Question: where is the appendix found in this document  
*Decision: Answered (no action needed)*

Line Item #61 – Page 53, lines 18-23 & Page 54, lines 1-6 – Subsection 1.1 through 1.4 need to be alphabetized  
*Decision: Accept*

Line Item #62 – Page 54, lines 7-14 – Question: why would automated filing be unavailable  
*Decision: Answered (no action needed)*

Line Item #63 – Page 55, line 16 – Question: why “no further description”  
*Decision: Answered (no action needed)*

Line Item #64 – Page 55, line 23 – Change “as soon as practicable” to a specific time period  
*Decision: Reject*

Line Item #65 – Definitions Section Page 3, line 6 to Page 9, line 13 – Terms in Definition section need to be alphabetized  
*Decision: Accept*

## **Review of Chris Alleva's Public Feedback**

Line Item #1 – Page 2, line 19 – Add "including the Howard County Administrative procedures act" after Howard County

*Decision: Reject*

Line Item #2 – Page 3, lines 19-20 – This definition adds substantive reasons, what is an injustice? It may not be a mistake

*Decision: Reject (not changing language)*

Line Item #3 – Page 3, line 22 – Need to address standing of parties

*Decision: Reject*

Line Item #5 – Page 7, between lines 14 & 15 – Proposed new definition of "Opposition Case"

*Decision: Reject*

Line Item #6 – Page 7, line 17 – Need to define gaining party status

*Decision: Reject*

Line Item #7 – Page 26, line 2 – Opposition case standing?

*Decision: Reject (not changing language)*

Line Item #8 – Page 27, line 22 – Add “of service” after certification

*Decision: Accept*

Line Item #10 – Page 30, lines 3-11 – Section 16.302b needs to be amended, Interlocutory appeals of Hearing Examiner decisions on motions are not prohibited

*Decision: Reject*

Line Item #11 – Page 32 lines 8-10 – Need to add attached language (what attached language?)

*Decision: Reject*

Line Item #12 – Page 32, line 12 – Title is not descriptive

*Decision: Reject*

Line Item #13 – Page 34, lines 2-4 – Electronic video recordings are considered the official record

*Decision: No action needed*

Line Item #14 – Page 34, line 23 – Expert testimony should not be recognized because it prejudices the hearings

*Decision: No action needed*

Line Item #15 – Page 37, after line 19 – Add the following: "D. The Board shall hear all motions and memorialize their decision in a written order with a detailed summary of the motion and the opposition motion, and the relevant law in support of the decision."

*Decision: Reject*

Line Item #16 – Page 37, lines 22-23 – Need procedure to establish standing at the outset. Need to fix error in County Code re: 16.100. Need to establish rules for intervenors

*Decision: Reject*

Line Item #17 – Page 42, line 9 – Add "into the record" after "official documents"

*Decision: Reject*

Line Item #18 – Page 42, lines 13-14 – Question: why is the County Solicitor permitted to cross-examine?

*Decision: Answered (no action needed)*

Line Item #19 – Page 43, line 5 – Strike "one of a" after "proof"

*Decision: Reject*

Line Item #20 – Page 43, lines 8-9 – Insert "on the record" after "deliberate"

*Decision: Reject*

Line Item #21 – Page 48, after line 11 – Add the following: "c. Board administrator shall index all Decisions and Orders"

*Decision: Reject*

### **Review of Joel Hurewitz's Public Feedback**

Line Item #2 – Page 3, line 9 – Board should only deal with land use appeals, why have this definition?

*Decision: No action needed*

Line Item #5 – Page 4, lines 22-23 – This term is defined in the Charter, why define it here?

*Decision: No action needed*

Line Item #6 – Page 6, line 10 – Ex parte definition should be the same as that of Zoning Board

*Decision: Reject*

Line Item #8 – Page 9, line 3 – Suggest rewording that definition or eliminating definition

*Decision: Reject*

Line Item #9 – Page 10, lines 1-22 to Page 11, lines 1-12 – Same sufficiency concerns as OOL, not authorized by Code

*Decision: No action needed*

Line Item #10 – Page 12, lines 15-21 – Examples of good cause not defined  
*Decision: Reject*

Line Item #11 – Page 13, lines 3-7 – Concern with record retention?  
*Decision: No action needed*

Line Item #13 – Page 23, line 21 – 24 hours to have agenda available inconsistent with Charter/Code, should be 3 days before  
*Decision: Reject*

Line Item #14 – Page 25, lines 1-3 – Wrong definition of ex parte, it's a "useless phrase"  
*Decision: No action needed*

Line Item #16 – Page 26, lines 18-21 – Suggest giving an accident as example of compelling circumstances  
*Decision: Reject*

Line Item #17 – Page 27, line 2 – What is meant by "another jurisdiction"? Not clear  
*Decision: No action needed*

Line Item #19 – Page 29, line 19 – Which "Court of Law"? The Circuit Court? Specify which court  
*Decision: Table*

Line Item #20 – Page 30, line 5 – Same question about Court of Law  
*Decision: Table*

Line Item #21 – Page 31, lines 6-15 – BOA doesn't deal with non-land use appeals, legal sufficiency concern  
*Decision: no action needed*

Line Item #22 – Page 31, line 18 – Flip between "Chairperson" and "Presiding official" here and throughout document  
*Decision: Reject*

Line Item #23 – Page 33, lines 4-7 – This is the purview of the Ethics Commission, not the BOA  
*Decision: Table*

Line Item #24 – Page 34, lines 10-16 – Does this include videos or large books? Confused on the difference between reports vs. technical reports  
*Decision: no action needed*

Line Item #25 – Page 35, lines 19-20 – Conflicts with previous section (Rule 9A) about reports, number of hard copies  
*Decision: change number of hard copies to 8*

Line Item #26 – Page 36, lines 15-19 – Why is this section necessary?

*Decision: change to 14 days*

Line Item #27 – Page 37, lines 15-16 – Suggest re-examining inconsistency between "days" and "business days"

*Decision: Reject*

Line Item #28 – Page 37, line 18 – What is "block font"?

*Decision: No action needed*

Line Item #29 – Page 38, lines 13-18 – Don't agree with this section, should only be a licensed attorney able to do this

*Decision: Reject*

Line Item #30 – Page 39, line 22 – Other example of where "Chairperson" is used instead of "Presiding official"

*Decision: No action needed*

Line Item #31 – Page 40, line 22 – Specify which "Court"

*Decision: Table*

Line Item #32 – Page 42, line 16 – What about "re-re-cross" and "re-re-direct"

*Decision: Reject*

Line Item #33 – Page 46, lines 12-13 – What if DPZ is not involved in a case?

*Decision: Answered (no action needed)*

Line Item #34 – Page 52, line 9 – Why require this training?

*Decision: Answered (no action needed)*

Line Item #35 – Page 53, line 15 – Why have electronic submissions section at the end?

*Decision: Answered (no action needed)*

Line Item #37 – Page 56, line 5 – What is meant by "currency"?

*Decision: change "currency" to "currentness"*

### **Next Steps**

The next Board of Appeals ROP Work Session will be continued on April 10, 2025 at 7:30 p.m. in the C. Vernon Gray Room.

The Board adjourned 2:28 p.m.

**MINUTES APPROVED**

*Kel Berg 4/10/2025*

