



Howard County Board of Appeals

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

MINUTES March 5, 2026 ADMINISTRATIVE MEETING Hybrid Hearing (Banneker Room and Webex)

Board Members Present:

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

Staff:

Kel Berg
Gary Kuc
Kiasten Miller

Call to order at: 9:16 a.m.

Administrative Matters

Approval of Minutes – January 8, 2026
Motion – Lynn Foehrkolb, 2nd Felita Phillips
Unanimously approved. The motion passed.

The Board of Appeals convened for an Administrative Meeting via hybrid hearing to have a general discussion of continuing education training and topics.

Discussion

The Board agreed to discuss their top training priorities and then determine the best way to accomplish those goals.

Ms. Harris provided documents to the Board to potentially incorporate into the training.

Mr. Ryan stated his training standards focused on quasi-judicial decision making topics, which included standards of review, rules of evidence, pre-hearing discipline, order of proceedings and common failures.

Ms. Harris stated 6 core modules and the Board agreed to focus on these training topics:

1. Maryland land use law and planning framework
2. Administrative law and quasi-judicial decision making
3. Hearing procedure and rules of evidence
4. Ethics, conflicts of interest and ex parte communications
5. Writing legally defensible decisions
6. Howard County regularity framework

Ms. Foehrkolb stated that the Board needed organized, extensive training and refresher training every year.

Ms. McCurdy stated that she had a one-on-one training session with Office of Law which included the regularity framework, that she took the PlanHoward Academy course which covered land use and planning, and that she was advised to read the rules and ask questions. She agreed that annual courses and public training sessions would be helpful.

Mr. Ryan said the goal would be to build a library out of the training for future Board members and that training should include demonstrations to visualize the process.

Mr. Kuc reviewed the types of cases heard by the Board and the rules and standards that apply regardless of the type of case. Mr. Kuc stated a pre-hearing memo could not address everything that occurs during a hearing and advised that when utilizing available resources the rules may be different in other states and counties. Mr. Kuc stated that reviews of topics must be abstract so that they don't conflict with pending cases. He suggested conducting mock trials and he stated that the agreed upon topics were well-defined.

Mr. Kuc stated that if the Board wants to build on the foundation of the 6 training topics, members should add items that they think fit under the topics and email them to the Board Administrator. The 6 areas will then be updated and sent back for the Board to discuss before the next steps. Mr. Kuc stated the Board should start by focusing on the most important topic and then determine how to execute it.

The Board discussed their main topics for training, how their bullet points will fit into the core modules, how they meet the burden of proof and evidentiary issues.

Ms. Harris asked if guiding questions for a hearing could be provided by Office of Law in advance before a hearing and Mr. Kuc replied that it is not the Board's burden to prove a case. Ms. Harris stated that the Board would be asking questions based on testimony and Mr. Kuc agreed.

Next Steps

The Board Administrator will send out the 6 core modules to Board Members. The Board members will add their bullet points for each topic and send to the Board Administrator by March 12th. The Board Administrator will provide a complete list to Board Members by March 17th for review. The Board will reconvene on March 19th to identify a specific priority and follow up with Office of Law for resources.

The Board adjourned at 10:32 a.m.

MINUTES APPROVED

Kel Berg 3/20/2026

Board of Appeals Training Recommendations

By Robbyn Harris

Maryland Land Use & Planning Commissioner Training (Required Foundation)

Maryland law requires training for planning and land-use decision makers (including Boards of Appeals). The Maryland Department of Planning developed a formal course for planning commissioners and board members to ensure they understand **land use law and decision-making standards**.

Recommended Training

Maryland Planning Commissioner Training Course (PCTC)

Provider: Maryland Department of Planning & University of Maryland

Core topics include:

- Maryland **Land Use Article**
- Comprehensive planning
- Zoning authority
- Conditional uses
- Variances
- Adequate public facilities ordinances
- Smart Growth policies

2. Administrative Law & Quasi-Judicial Decision-Making

The Board of Appeals acts as a **quasi-judicial tribunal**, meaning it must follow principles similar to a court.

Board members should receive training on:

Core Topics

- Administrative law fundamentals
- Burden of proof
- Findings of fact vs. conclusions of law

- Standards of review
- Due process requirements
- Record-based decision making

Your decisions must be based only on **substantial evidence in the record**, and hearings must be conducted in a way that protects the rights of the parties.

Best Training Providers

- **National Association of Administrative Law Judiciary**
 - **American Planning Association (APA)**
 - **Land Use Education programs (University extension programs)**
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3. Evidence & Hearing Procedure Training

Most appeals boards fail in court because of **procedural mistakes**, not because of policy disagreements.

Training should include:

Hearing Management

- Conducting public hearings
- Managing testimony
- Handling expert witnesses
- Qualifying experts
- Admitting exhibits into evidence

Boards should also understand that evidence must be **probative and reliable**, similar to judicial standards.

Practical Skills

- How to question witnesses
 - How to avoid bias during deliberation
 - How to evaluate conflicting expert testimony
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4. Ethics, Conflicts of Interest & Ex Parte Communication

This is one of the **most critical training areas**.

Board members must understand:

Ethics Topics

- Conflict of interest rules
- Financial disclosure
- Appearance of impropriety
- Recusal standards
- Communications outside hearings

For example, Board members **cannot communicate with outside parties about a pending case outside the official hearing process**.

Training Sources

- Maryland State Ethics Commission
 - Maryland Association of Counties (MACo)
 - County Solicitor training sessions
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5. Writing Legally Defensible Decisions

One of the biggest weaknesses of many Boards of Appeals is **poorly written decisions**.

Training should cover:

Decision Structure

A legally defensible decision must include:

1. **Findings of Fact**
2. **Applicable law**
3. **Analysis**
4. **Conclusions of law**
5. **Final order**

Howard County rules require final decisions to include **findings of fact and conclusions of law** in the written order.

Skills Training

- How to link facts to the zoning criteria
 - How to avoid arbitrary decisions
 - How to cite the record
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6. Howard County Specific Training

Local training should cover:

County Framework

- Howard County Charter
- Howard County Code
- Zoning Regulations
- Board of Appeals Rules of Practice & Procedure

The Board hears matters such as:

- Appeals from administrative decisions
- Variances
- Conditional uses
- Nonconforming uses or expansions

Board members must know the **specific standards required for each type of petition.**

7. Annual Continuing Education (Best Practice)

Many counties now require **annual continuing education** for quasi-judicial boards.

Recommended topics rotate annually:

Examples:

- Court decisions affecting zoning

- Housing law / fair housing
 - Environmental land use law
 - Telecommunications / solar facility siting
 - Traffic and APFO standards
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8. Mock Hearing Training (Highly Effective)

One of the **best training methods** is simulation.

Example exercise:

- Conduct a mock variance hearing
- Present expert testimony
- Deliberate as a board
- Draft findings of fact

This helps members practice:

- evaluating evidence
 - questioning witnesses
 - making defensible decisions.
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9. Court Appeal Awareness Training

Board members should understand **how their decisions get challenged**.

Topics:

- Judicial review in Circuit Court
- Administrative record requirements
- Standards courts use to overturn decisions

Understanding this dramatically improves decision quality.

