

**ST. MICHAELS BOARD OF ZONING APPEALS**  
**RULES OF PROCEDURE**  
**Adopted 12-22-08**

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**RULES OF PROCEDURE**

Foreword

These Rules of Procedure are issued as a guide to assist the St. Michaels Board of Zoning Appeals, its staff and the public in the orderly and efficient conduct of all matters with which the Board is concerned. The Rules of Procedure are authorized by the Code of the Town of St. Michaels, Chapter 98, §98-6. Criteria for Board of Zoning Appeals membership, organization, functions and responsibilities are contained primarily in Chapter 98 “Boards, Commissions, Committees and Panels”, §98-6 “Board of Zoning Appeals” and Chapter 340 “Zoning,” Article VIII “Board of Zoning Appeals Procedure” and Article IX “Board of Zoning Appeals Powers and Duties.” There are additional responsibilities and functions of the Board contained in Chapter 108 “Building Construction,” Chapter 173 “Floodplain Management,” Chapter 191 “Housing Standards,” and Chapter 333 “Waterways Management.” These Rules of Procedure are in addition to and supplement any requirements of the St. Michaels Code, Article 66B of the Annotated Code of Maryland and the State of Maryland Open Meetings Act.

Rule 1. Definitions.

In these Rules of Procedure the following terms have the meanings indicated:

**BOARD** – the St. Michaels Board of Zoning Appeals

**COMMISSIONERS** – Commissioners of the Town of St. Michaels

**HEARING** – a quorum of the Board convened to consider an application or an appeal.

**MEETING** – a quorum of the Board convened for the transaction of public business other than a hearing.

## Rule 2. Adoption of Rules of Procedure

### A. Applicability

These Rules of Procedure shall apply to the conduct of all matters that come before the Board by law or custom. In the event that an issue is raised during the course of a matter being considered by the Board that is not addressed herein, the current edition of Roberts Rules of Order Newly Revised, shall apply.

### B. Policies.

The Board, by resolution, may adopt policies to implement these Rules of Procedure.

## Rule 3. Organization

### A. Officers.

The Board shall elect a Chairman and Vice-Chairman annually at the first meeting of the Board in January of each calendar year. The Chairman shall preside at all hearings and meetings of the Board. The Vice Chairman shall preside in the Chairman's absence. The Vice-Chairman shall succeed the Chair if that office is vacated before the term is completed and shall serve the unexpired term of the vacated office. A new Vice-Chairman shall be elected at the next regularly scheduled meeting.

The presiding officer shall decide all points of order, objections and procedure, subject to these rules, unless otherwise directed by a majority of the Board members present.

### B. Quorum.

A majority of the members of the Board shall constitute a quorum. If there are two members of the Board convened to conduct a hearing, the Board shall open the hearing and advise the applicant on the record of the following:

- (1) A majority vote of the full Board, two votes, is required to award relief;
- (2) The applicant is entitled, upon request, to postponement of the hearing for lack of a full Board, at no expense to the applicant for re-advertising; and,
- (3) The applicant is also entitled to proceed with the hearing, but in making that election the applicant waives the right to a hearing before the full Board.

### C. Legal Counsel.

The Commissioners may employ legal counsel for the Board to advise it and prepare its written decisions if so warranted.

D. Secretary

The Commissioners shall appoint a Secretary to the Board. The Secretary to the Board shall perform official duties assigned by these Rules or by the Board. The Secretary shall prepare the agenda which shall be approved by the Chairman. The Secretary is the contact person for all normal communications between Board members, applicants, public and staff.

Rule 4. Hearings and meetings

A. Frequency

The Board shall convene the second Monday of the month, excluding legal holidays, as dictated by the number of pending applications. At the call of the Chairman, the Board may convene at such other times as the Chairman deems necessary and appropriate.

B. Location

Regularly scheduled hearings and meetings will be held in the meeting room of the Edgar M. Bosley Jr. Municipal Building, 300 Mill Street, St. Michaels, MD, or at such other locations as may be convenient to the Board. If the Board designates another location for reasons of necessity, adequate public notice of the new location shall be posted or published.

Rule 5. Applications

A. Forms

All applications shall be filed on forms approved by the Board, provided by the Secretary to the Board, and shall be accompanied by the filing fee established by the Commissioners..

B. Signature.

All applications shall be signed by the applicant under penalty of perjury. All requested information shall be provided or its absence satisfactorily explained. Applications failing to comply with this requirement will be deemed incomplete, will not be accepted for filing, and will be returned to the applicant with a brief description of the required but missing or incomplete information.

Rule 6. Filing and service

A. Filing

Applications, notices, statements, exhibits, and other papers (collectively “documents”) filed with the Board shall be filed with the Secretary to the Board.

B. Copies.

The applicant shall provide a sufficient number of copies as required by the application.

C. Exhibits

Copies of all exhibits offered or accepted into evidence at any hearing shall be provided to and served upon all other parties. All exhibits shall include an original for the record plus a copy for each Board member and the board’s counsel. In addition, one copy shall be served upon each party of record.

Rule 7. Statement of case.

The applicant shall provide a simple and complete narrative statement setting forth in full detail all facts upon which the applicant relies to support any claim for relief.

Rule 8. Continuances.

A. Generally.

A hearing that has been properly convened may be continued by the Board without re-advertisement if the Board announces at or before adjournment of the original hearing the date, time, and place at which the hearing is scheduled to resume.

B. Posting notice.

The Secretary to the Board will post the date, time, and place of all hearings on the Board’s official website and on the bulletin board located in the Edgar M. Bosley Municipal Building, 300 Mill Street, St. Michaels, MD.

Rule 9. Conduct of public hearings

A. Open meetings

Hearings and meetings of the Board shall be open to the public in accordance with the Maryland Open Meetings Act (State Government Article § 10-501 et seq.), as the same is amended from time to time.

B. Recordings, transcripts.

It shall be the duty of the Secretary to keep a true and accurate record of all proceedings at all public hearings and meetings. Hearings and meetings shall be electronically recorded. A tape recording may be accepted as the official record. Recordings shall not be transcribed except at the request and expense of the person making the request. A request for a transcript must be in writing, addressed to the Secretary to the Board and accompanied by a sufficient deposit as determined by the court reporter.

C. Minutes.

The Board shall have written minutes prepared to reflect each item that the Board considered, the action that the Board took on each item, and each vote that was recorded. Minutes shall be prepared as soon as practicable, but in no case more than 30 days after the hearing. The minutes shall be distributed to the individual members and, if approved by the Board, placed in a record book or file. State Government Article § 10-509, Md. Ann. Code, (Maryland Open Meetings Act) concerning Session Minutes and Contents applies to the Board. Minutes and tape recordings of any open meeting shall be available for public inspection and copying upon request and at the expense of the person making the request.

D. Participation.

Any person may: (1) participate in any public hearing, (2) produce relevant evidence to support their position; (3) have witnesses summoned by the Board to provide testimony and produce documents or other relevant evidence; and (4) represent himself, or be represented by counsel. Only one person for each side may question each witness unless otherwise permitted by the Board.

E. Record.

Testimony and exhibits, including exhibits that were offered but excluded from evidence, shall become part of the record. Originals may be withdrawn with the Board's permission by substituting an acceptable duplicate or photocopy.

F. Witnesses.

All witness shall first state their full name and mailing address for the record, and shall swear or affirm to testify truthfully under penalties of perjury. The Chairman, or his designee, will administer the oath. **“Do you solemnly swear or affirm under the penalties of perjury**



**that the responses given and statements made will be the whole truth and nothing but the truth?”**

G. Order of Presentation.

Except for matters involving an appeal of a decision of a Town Official or Commission, the order of presentation shall be as set forth below:

1. Introduction of the Case by the Chair
2. Incorporation of the file and record provided by staff into the record
3. Presentation by Petitioner, agent or attorney
4. Testimony of Staff and agencies related to the case.
5. Testimony of Proponents
6. Testimony of Opponents
7. Cross-Examination
8. Summary Statements
9. Closing of the Public Hearing
10. Deliberations

In matters involving an appeal of a decision of a Town Official or Commission, the order of presentation shall be as follows:

1. Introduction of the Appeal by the Chair
2. Appellant Testimony and Evidence, including Witnesses called by the Appellant
3. Town Staff Testimony and Evidence, and incorporation of the file and record provided by staff into the record
4. Testimony and Evidence by the Person or Entity whose Rights are impacted by the Appeal.
5. Summary Statements
6. Closing of the Public Hearing
7. Deliberations

At any time Board members may address questions to staff, applicant, appellant, witnesses or any others present at the hearing as is deemed appropriate.

H. Evidence.

The Board is not bound by formal rules of evidence, but may apply rules of evidence as to what is admissible in judicial proceedings so that probative evidence may be conveniently brought forth. The Board may exclude immaterial or unduly repetitious testimony, or evidence, and may limit the number of witnesses when testimony is cumulative in nature.

Rule 10. Closed sessions of Board.

The Board may meet in closed session as authorized by the Maryland Open Meetings Act, State Government Article § 10-508 (a), MD. Ann. Code, as amended from time to time..

Rule 11. Decisions of the Board.

A. Form

All decisions shall be in writing and shall contain findings of fact and conclusions of law. The decision shall be signed and dated by each member of the Board who participated in the hearing on the application. Dissenting opinions shall be similarly authenticated.

B. Time.

The Board shall render its written decision within 30 days after the close of the public hearing and shall furnish a copy to each of the parties or their counsel.

C. Date

The decision shall be dated when the last Board member signs it. The time for noting an appeal runs from the date of the written decision.

Rule 12. Withdrawn or postponed applications.

A. Withdrawals.

An application may be withdrawn prior to the hearing by delivering written notice of withdrawal to the Secretary to the Board.

B. Postponements

The Board may postpone hearings, in its discretion, upon request or upon its own motion. Persons obtaining a postponement shall pay all costs incurred due to the postponement, except when the postponement was required for lack of a full Board.

Rule 13. Time extensions.

The Board may extend the time for compliance with these Rules, in its discretion, upon request or upon its own motion. Parties requesting or obtaining any such extension shall pay all resulting costs

Rule 14. Open session public hearings.

A. Recording.

Persons desiring to videotape, televise, photograph, broadcast, or record a hearing or meeting of the Board shall submit a written request to the Secretary to the Board at least five (5) days prior to the date of the hearing or meeting. Any such activity may be permitted only with the prior consent of the Board and all parties to the proceeding.

B. Disruption.

The Chairman may request disruptive individuals to leave the hearing or meeting, and may have any disruptive individual who continues to interfere with the proceedings removed.

Rule 15. Reimbursement of fees.

Advertising fees.

Advertising fees shall be reimbursed for applications that are withdrawn if time permits cancellation of the public notice of the hearing, but not otherwise. Filing fees are not subject to reimbursement except as provided in the Town Code.

Rule 16. Communications.

A. General.

The Board shall not consider any *ex parte* or private communication from any person or organization, whether oral or written, which may relate to the merits of any administrative appeal, special exception, or variance pending before the Board of Zoning Appeals. Any such communication must be noted in the record of the case and the parties shall be given an opportunity to comment thereon.

B. Town staff.

Nothing contained herein shall preclude the Board from obtaining any evidence, counsel or assistance from the Town staff provided the staff or their department is not a party to or directly involved in a pending matter for which the advice, counsel, or assistance is sought.

Rule 17. Appeals.

General.

Any person who participated in the hearing who is aggrieved by a Board decision may file an appeal to the Circuit Court for Talbot County within 30 days of the Board's written decision in accordance with the Maryland Rules.

Rule 18. Conflict

In the event that any of the provisions of these Rules of Procedure contradict or conflict with any provision of the Code of the Town of St. Michaels, said provisions shall be of no force and effect and the provisions of the Town Code shall govern.

Reviewed on December 22, 2008 with the vote as follows

VOTE:	Gillman	Aye
	Britt	Aye
	Drobnick	Aye

ADOPTED: December 22, 2008

Certified: Deborah A Renshaw

Deborah Renshaw, Secretary to the Board