

Board of Appeals

Powers & Duties



May 25, 2021

Updated June 1, 2023

EXECUTIVE SUMMARY

The Board of Appeals is established by the Bel Air Board of Town Commissioners under State law (Land Use Article Annotated Code of MD, Section 4-03). The Board of Appeals consists of five appointed members and one alternate. Members must be residents of the Town and are appointed to serve a term of three years. Within six months following appointment to the Board, a member shall complete the education course set by the State of MD. The Board of Appeals powers and duties are as follows:

1. Hear appeals from a decision or interpretation rendered by the Zoning Administrator or other Town official related to the Development Regulations.
2. Grant or deny a request for a Special Exception pursuant to Article XII, Section 165-93 of the Town of Bel Air Development Regulations.
3. Grant or deny a request for a Variance pursuant to Article XII, Section 165-92 of the Town of Bel Air Development Regulations.
4. Grant authorization to expand or extend a non-conforming use and/or structure based on Article IX, Section 165-66 of the Town of Bel Air Development Regulations.
5. Hear appeals or requests for a variance from requirements of Chapter 210, Floodplain Management Regulations of the Bel Air Code.

The Board of Appeals is charged with addressing special or unusual zoning situations which require individual attention. The primary role of the Board is to ensure that zoning is fair and correctly interpreted based purely on the provisions outlined in the Town Code. To this end, the Board cannot vary from code and make arbitrary decisions without reliable findings of fact and clear reasoning based on the evidence presented and how it conforms with the intent of the regulations.

This document provides a general overview of the duties and responsibilities of the Board of Appeals members. It refers to pertinent sections of the Land Use Article of the Annotated Code of Maryland, Bel Air Development Regulations, summary of the State of Maryland Open Meeting Law, Ethics regulations of the Town, outline of the Board of Appeals process and sample motions.

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PROCEDURES

Board of Appeals

Application to review a Zoning Administrator Interpretation, Variance, Special Exception, and Expansion of a Non-Conforming Use/Structure shall be made to the Board of Appeals in accordance with Article XII of the Town of Bel Air Development Regulations.

The application must include the following:

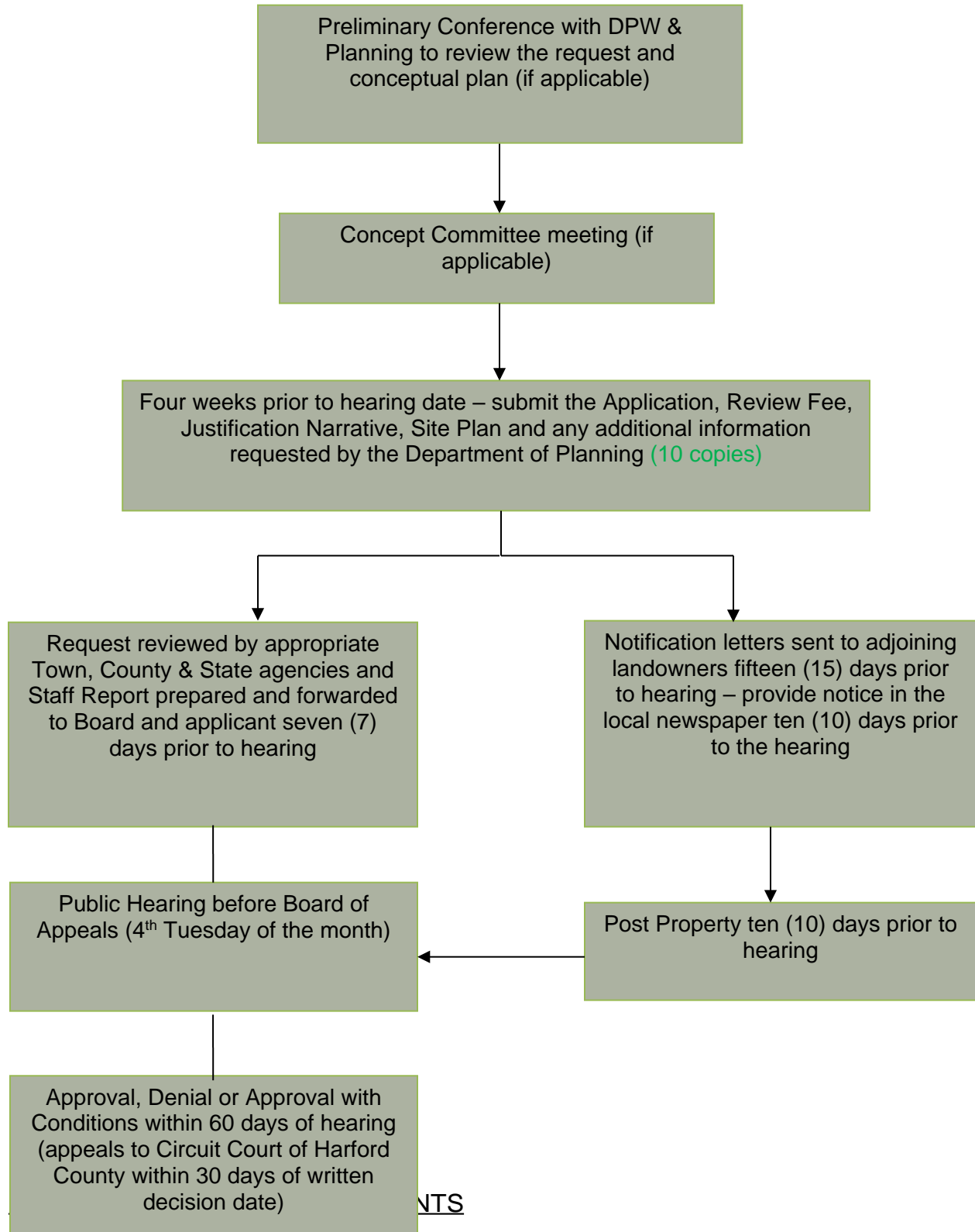
1. A complete and signed Board of Appeals application.
2. The appropriate fee as outlined in the latest applicable Town Fee Schedule.
3. An annotated checklist addressing all applicable performance standards and district requirements.
4. List of all adjoining property owner information (to be included with the application).
5. Site Plan graphically describing the property and indicating the type of relief requested including elements as required in the applicable checklist
6. Any other supporting information deemed applicable to the proposed application by the Zoning Administrator or by the applicant
7. All plan submissions must also be submitted in appropriate digital format

The application, fee, plan and required exhibits must be submitted four (4) weeks prior to the hearing as described above, the applicant shall submit any revisions and additional supporting information to the Planning Office no less than fourteen (14) days prior to the scheduled hearing. Failure to submit requested changes by this deadline may result in removal of the case from the Board agenda for that month. The request to the Board will be rescheduled once the requisite information has been received.

S:Forms&Templates >1/2020

PROCESS

Board of Appeals



Maryland has delegated most planning responsibility to local government. The enabling legislation is contained in the Land Use Article, Section 4-3 thru 4-4 of the Annotated Code of Maryland which establishes the framework within which local government must operate. The State specifies the types of controls local government may utilize when reviewing special cases where the exact application of the Development Regulations may be unduly restrictive or cause hardship to an applicant. Local zoning regulation may not confer powers to the Board which are not authorized by the State enabling act.

The function of the Board of Appeals is to decide on the interpretation and application for any relief from provisions of the development regulations based on specific criteria. The Board has certain discretionary powers in applying the code, but those powers have fixed limits in the local ordinance to which the members must abide. The Bel Air Board of Appeals must operate according to the provisions of Article XII in the Development Regulations when reviewing Variances and Special Exceptions. The Board must adhere to Article IX when reviewing Non-Conforming Uses or Structures. Review of a variance from Floodplain Management regulations is based on Chapter 210 of the Town of Bel Air code. An aggrieved person may also appeal the decision of the Zoning Administrator regarding the interpretation of the code. This review is based on the specific section of the Town code.

ROLE OF THE BOARD OF APPEALS

The Development Regulations cannot provide guidance for all conceivable situations. The primary function of the Board of Appeals is to provide flexibility when applying specific sections of the Development Regulations so that practical development solutions are available. In effect, the Board acts as a "safety valve" to address the unintended consequences of government regulation. Without this body to decide such matters, solutions to these development problems would have to be accomplished by amendment of the Town Code or through the courts.

FUNCTION OF THE BOARD OF APPEALS

Based on the Maryland Annotated Code and local regulations, the Board of Appeals has the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or a Town administrative official in the enforcement of Town Development Regulations.
2. To review and decide requests for a Special Exception based on criteria found in Article XII, Section 165-93 and Article VII, Section 165-53 of the Town Development Regulations.
3. To review and decide requests for a Variance from the specific terms of the Town code by applying Article XII, Section 165-92 in the Development Regulations or a Variance from the Floodplain Regulations found in Chapter 210 of the Town code.
4. To hear and decide requests for the continuance, extension, enlargement and/or abandonment of non-conforming buildings, structures and uses in the Town based on Article IX, Section 165-66 of the Development Regulations.

In exercising the above-mentioned appeal powers the Board may, in conformity with the provisions of articles in the Annotated Code of Maryland, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

OPERATION OF THE BOARD OF APPEALS

The Board of Appeals elects a Chair and Vice-Chair for one-year terms. The Board Organization, Parliamentary Procedure, Rules and Regulations are included as Appendix A. The Board of Appeals holds regular meetings on the fourth Tuesday of each month. Special meetings may be called by the Chair or upon written notice of a minimum of two (2) members. All meetings are open to the public, except those meetings (or portions of meetings) which may be closed to the public under the Maryland Open Meetings Act (See Appendix B).

Within six (6) months of appointment a Board of Appeals member shall complete an education course assembled by the Maryland Department of Planning that include the role of the Comprehensive Plan, proper standards for special exceptions and variances and application of other land use Regulations.

The Board of Appeals rules of procedure (see Appendix A) is provided to assure that the Board gives fair, open and consistent consideration to all cases coming before it. Such rules assure uniform treatment of all matters before the Board. Additionally, the Maryland Open Meetings Act (see Appendix B) is necessary to assure compliance with State law.

Full and comprehensive information on Board actions assist the facilitation of its duties in a transparent manner. In all instances, it is necessary to issue findings of fact and the basis for Board conclusions when issuing a decision. The requirement of signs placed on property, advertisement in the local paper and notices mailed to adjacent property owners indicating that the Board is holding a public hearing to consider an application for review help to promote public understanding.

Actions of the Board are always subject to court review. The Board must keep current and complete records of the facts presented to it, the decisions reached and the reasoning behind the decisions. Recordings of each meeting must be kept for

one (1) year. A court reporter must be available at each meeting in case a transcript is needed for appeal. The adoption of standard forms (see Appendix D) and procedures will reduce the possibility of mistakes.

On legal matters, the Board should seek an opinion from the Town Counsel. For background information, the Board may seek information from the Planning Department staff or other related agencies.

ADDITIONAL DUTIES OF THE BOARD OF APPEALS

The Board shall:

1. Make, alter, or rescind rules and forms for its procedures consistent with the Town Development Regulations;
2. Keep minutes of its proceedings, which include the vote of each member on each question, and record its investigations and other official actions; and
3. File its records in the Town Department of Planning & Community Development and maintain them as a public record.

BOARD OF APPEALS AND THE INTERPRETATION OF THE DEVELOPMENT REGULATIONS

Questions which arise over the meaning of a particular provision of the Development Regulations are decided by the Board. Such interpretation is limited to appeals from an interpretation of the development regulations by the Zoning Administrator or other Town official. If the Zoning Administrator denies a use or activity, the applicant may appeal the decision by asking for an interpretation of the Regulation requirement from the Board.

An interpretation may also be needed when an applicant for a building permit disagrees with the Zoning Administrator regarding the location of a boundary line between districts. For example, the line between a business and an industrial district may be in question regarding the property of an applicant. An appeal for a decision on the exact location of the district boundary is made to the Board.

SPECIAL EXCEPTION

A use that may not be appropriate without restriction or additional conditions can be allowed as a Special Exception if approved by the Board of Appeals. The Board must find that there would be no adverse impact to neighboring properties or the public caused by approval of the request. In order to measure impact, a general rule applied to any Special Exception in Maryland (Shultz v. Pritz, et al) is whether the proposed use would have a greater adverse impact to surrounding properties or to the public in its proposed location than if the same use were located in other nearby areas that are similarly configured and zoned.

Any approval shall be based upon a finding that certain conditions governing special exceptions as detailed in the Development Regulations exist, that the use conforms to the Comprehensive Plan and is compatible with the existing neighborhood. Board power to grant a Special Exception is cited in the Bel Air Town Code, Chapter 165, Article XII, Section 165-93. Performance Standards directly related to the specific use must also be addressed and no variance is permitted from the performance standards. In general, the use related to a Special Exception requirement is considered permitted pending application of conditions found in Article VII, Section 165-53 which mitigate the operation, design, orientation, size, or other aspect of the proposed project.

The Zoning Administrator must transmit to the Board of Appeals applications for permits requiring Special Exceptions. The Board, in reviewing the application, will investigate the type of use proposed and its impact on the surrounding

neighborhood and on the basis of a Site Plan, narrative and other applicable exhibits describing the proposed use and public input, determine whether or not the use as proposed is in conflict with the Development Regulations.

Requests for Special Exceptions from the Development Regulations are heard and decided on a case by case basis. Each case is reviewed on its own merits, appropriateness and compatibility within a given zoning district. Special Exceptions therefore are treated differently from permitted uses which are regulated uniformly within the zoning district.

If the Board finds the use as proposed conflicts with the purpose and intent of the Regulations, it may require that certain conditions be met before approval is given. These conditions may include, but are not limited to, requirements for a greater amount of open space; the use of devices to control illumination, noise, odor, dust and smoke; specific locations for parking and driveways; or other appropriate requirements as outlined in the Development Regulations. The facts of the case must, however, indicate that fulfillment of the required conditions is necessary to carry out the intent of the Regulations.

Once the Board of Appeals has given written approval, denial or approval with conditions to an application for a Special Exception, the Zoning Administrator is obligated issue a permit, subject to any conditions which the Board has imposed. The applicant or a person with standing may appeal any approval or denial from the Board of Appeals

Since the Planning Commission is the body which undertakes the studies resulting in the adoption of the Development Regulations, the Board may wish to seek its advice in granting Special Exceptions. The Planning Commission can be of help in determining the intent of the Regulations and deciding what conditions might be imposed in specific cases.

VARIANCE

Variations permitted under the powers granted to the Board are not adjustments of a particular provision of the Development Regulations. They are the relaxation of a specific requirement of the regulations when circumstances warrant. For example, an applicant for a building permit in a residential district may find that the thirty (30') foot front yard requirement of the Regulations cannot be applied to a particular lot if it is to be used for a permitted use. To avoid a stream running through the lot, it may be necessary to locate the structure less than thirty (30) feet from the street. In this case, the Board may review the facts relating to the subject parcel and permit the front yard requirement to be reduced to less than thirty (30) feet while still adhering to the intent of the Development Regulations.

In granting a variance, the Board may not make any decision which is contrary to the purpose and intent of the zoning regulations. For example, it has no power to permit business establishments to locate in districts where such business uses are prohibited. To do so is not an adjustment to the Development Regulations but would constitute an amendment. Amendments can be made only by the Board of Town Commissioners.

A situation which applies generally throughout an area may not be rectified by granting a variance. Such matters should be handled through an amendment to the Development Regulations by the governing body. There is no basis for granting an adjustment in the provisions of the Development Regulations unless the zoning combined with the physical condition of a parcel of land presents a special or unique situation that would prohibit or unreasonably restrict use of the property.

The Board may not grant a Variance unless strict application of the zoning regulations prevents a reasonable use of the property. Reasonable use is not the most profitable, so evidence of economic impact is not generally permitted. Each Variance application must meet specific criteria before a proposal may be approved by the Board.

Uniqueness and practical difficulty must be proven. A Variance issued for lesser reasons or simply because the Board feels it is acting for the common good constitutes an invalid application of Board authority. It is essential to hear all the facts and measure each case on its own merits. Below are some guidelines, based on legal precedent, for applying the concept of uniqueness and practical difficulty.

1. Uniqueness: The subject property has an inherent characteristic or condition not generally shared by other surrounding properties, i.e. its shape, topograph, subsurface condition, practical restrictions imposed by abutting properties, or the uses thereon, or other restrictions.

2. Practical difficulty:
 - a. Strict compliance with the Town of Bel Air Development Regulations would unreasonably prevent the applicant from using the property for a permitted purpose or would render the conformity with such restrictions unnecessarily burdensome; however, that the granting of the Variance would make the property or use more profitable is not a sufficient reason.

 - b. Granting the variance would do substantial justice to the applicant as well as to other property owners in the area.

 - c. The variance can be granted in such a way that the spirit of the Town of Bel Air Development Regulations will be observed, and public safety and welfare secured.

 - d. The practical difficulty is caused by the property's uniqueness and is not personal to the applicant or the result of acts of the applicant, the property owner, or their predecessor in title.

To summarize, in granting a variance the public interest must be served. A major consideration in deciding on an appeal for a variance is whether granting the adjustment will serve the public good. The Board may not grant an adjustment when the action would injure and endanger the health, safety or welfare of the public.

APPENDIX A

ORGANIZATION, PARLIAMENTARY PRECEDURES, RULES AND
REGULATIONS FOR THE TOWN OF BEL AIR BOARD OF APPEALS

2021

BOARD OF APPEALS

TOWN OF BEL AIR

ORGANIZATION, PARLIAMENTARY PROCEDURE, RULES AND REGULATIONS
FOR TOWN OF BEL AIR BOARD OF APPEALS

Section I. The Board of Appeals

- A. Authority. The Town of Bel Air Board of Appeals is established by the authority of the Land Use Article of the Annotated Code of Maryland and Chapter 10 of the Town of Bel Air code.

Section II. Board Membership, Appointment, Compensation, Term, Removal and Duties

- A. Membership, Appointment, Compensation and Term. The Town Board of Appeals shall consist of five (5) members and one alternate. Additionally, the Board of Town Commissioners may appoint a member of the Town Board to serve in an ex-officio capacity to attend meetings and report to the Commissioners on official activity. The Board of Appeals members shall be appointed by the Board of Town Commissioners and shall serve without compensation. The term of each member, except any ex-officio member, shall be three (3) years or until a successor takes office.
- B. Removal and Vacancies. After a public hearing, members may be removed by the Board of Town Commissioners for inefficiency, neglect of duty or malfeasance in office. The Board of Town Commissioners shall file a written statement of reasons for the removal. Vacancies occurring otherwise than through the expiration of a term shall be filled for the unexpired term by the Board of Town Commissioners.
- C. Officers, Chair and Vice-Chair. A Chair and Vice-Chair shall be elected annually by a majority vote of the Board of Appeals and shall serve for the calendar year. The Board of Appeals shall elect officers at its first regular meeting of each year.
- D. Alternate. The Alternate serves as a member with all the associated obligations and authority only when a regular member cannot attend a meeting.
- E. Duties. The duties and powers of the officers of the Board of Appeals shall be as follows:

1. Duties of Chair:
 - a. Preside at all meetings of the Board of Appeals and regulate the course of the meeting and rule upon procedural matters and objections made during the meeting.
 - b. Call special meetings of the Board of Appeals in accordance with the Rules and Regulations.
 - c. Sign documents of the Board of Appeals.
 - d. See that all actions of the Board of Appeals are properly executed.
 - e. Appoint any member to serve as an ex-officio member of any committee formed by the Board of Appeals.
 - f. Cancel meetings or amend agenda of the Board when circumstances require, such as inclement weather, incomplete submission or lack of a quorum.

2. Duties of the Vice-Chair: The Vice-Chair shall assume the Chair in the absence, disability, or disqualification of the Chair and shall assume all duties regularly performed by the Chair and be subject to all responsibilities of the Chair including signature of documents.

Section III. Meetings

A. Time of Meetings

1. Regular Meetings. Regular meetings of the Board of Appeals shall be held each month on the third Tuesday at 6:00 p.m. in the Town Hall. The first regular meeting of the year shall constitute the annual organization meeting of the Board.

2. Special Meetings. Special meetings of the Board of Appeals, when necessary, may be called by the Chair at their discretion, and as the Board of Appeals may determine, or upon written notice of two (2) members.

B. Notice of Meetings

1. Notice of Regular Meetings. At least seven (7) days' notice of the time set for regular meetings shall be given each member.

2. Notice of Special Meetings. At least seven (7) days' notice of the time set for a special meeting shall be given each member.

3. Notice of Affected Parties. At least seven (7) days' notice of the time set forth for such meetings shall be given by first-class mail to each party or person affected in matters scheduled for consideration by the Board of Appeals and the agenda posted at Town Hall and the Town website for public review.
- C. Cancellation of Meetings. Whenever there are no matters or other important business to be considered at any regular meeting, the Director of Planning (Zoning Administrator) may dispense with such meeting by notifying the Board of Appeals and any other parties who may have been given notice of such meeting not less than forty-eight (48) hours prior to the time set for the meeting. The Director of Planning will keep the Board of Appeals members apprised of pending meetings or meeting cancellations.
 - D. Withdrawal of Application. The applicant may withdraw their submission to the Board of Appeals forty-eight (48) hours prior to the meeting for any reason by submitting a request in writing. Should the request come less than 48 hours, the Chair must decide if the agenda item can be removed on such short notice without causing inconvenience to the public and interested persons.
 - E. Non-Attendance by Member. Any member of the Board of Appeals who has knowledge of the fact they will not be able to attend a scheduled meeting of the Board of Appeals shall notify the Planning Department at the earliest possible opportunity and, in any event, prior to 12:00 p.m. on the date of the meeting. The Director of Planning shall notify the Chair if the projected absence(s) will produce a lack of quorum.
 - F. Conduct of Meetings
 1. Attendance. All meetings of the Board of Appeals shall be open to the public unless determined by the Board to meet the requirements of a closed session based on the Maryland Open Meetings Act.
 2. Quorum. A majority of the members of the Board of Appeals entitled to vote shall constitute a quorum for the transaction of business.
 3. Order of Business. The order of business at regular meetings shall be substantially as follows:
 - a. Call to Order
 - b. Approval of Minutes from the previous meeting(s)

- c. Unfinished Business – Consideration of development applications continued from previous meetings
- d. New Business - Consideration of new development applications
 - (1) Staff Report
 - (2) Applicant to present case including witnesses.
 - (3) Opponents may cross-examine any witness presented by the applicant or a member of the public in support of the applicant.
 - (4) At the close of the applicant's case, opponents may present their case including witnesses.
 - (5) Applicant may cross-examine any witness presented by the opposition or a member of the public in support of the opposition.
 - (6) At the close of the opponent's case, the applicant may provide a rebuttal.
 - (7) The Chair (or court reporter) must administer an oath to each person testifying during the proceedings.
 - (8) Any witnesses who testify as experts on a subject must be accepted as such by the Board of Appeals. This may include offering of credentials by the applicant and challenge by the opposition.
 - (9) Board of Appeals members may question the applicant, opponents, the public or staff at any time during the proceedings.
 - (10) Motion, Second, Board member discussion and Vote
- e. Miscellaneous Business
- f. Chair closes meeting

Note: Chair may change agenda items for the expeditious conduct of business.

- 4. Rules. Roberts Rules of Order shall be used as a guideline for conducting the business of the Board of Appeals, subject to the discretion of the Chair.
- 5. Oath. The Chair, or in his or her absence, the Vice-Chair, may require witnesses to be sworn in before testimony.
- 6. Standing. In addition to the applicant, evidence and testimony may be presented by persons with standing. For purposes of Board hearings, persons with standing shall be defined as: Owners of property within the Town; Residents of the Town; any other persons not identified above whose personal or property interest may be specifically affected by the granting or denial of the application may participate and have the same rights to present evidence or speak as are afforded to the applicant. This does not confer standing to appeal unless approved by the court.
- 7. Questions. All speakers and participants shall address questions to the Chair who may respond or request a response from the applicant, Board members or

staff, as appropriate. Any member of the Board, with recognition of the Chair, may question any speaker or witness about their testimony.

8. Continuation. A hearing may be recessed or continued, and a decision may be tabled from time to time if not in violation of the Bel Air Town Charter, Bel Air Development Regulations or the Land Use Article of the Annotated Code of Maryland.
9. Appearance. No comment provided in writing or petition will be accepted into evidence unless the persons are present to provide an opportunity for cross-examination.
10. Voting. On any question put to a vote, each member shall verbally cast a vote unless excused by reason of a personal or private interest in the matter under consideration in which case that member may abstain from voting.
11. Minutes. The recording secretary shall keep minutes of the Board of Appeals proceedings showing the vote of each member upon each question, or if a member is absent or fails to vote, indicating such fact. The minutes of each proceeding shall be approved by the Board and shall be signed by the Chair.
12. Conflict of Interest. Any member of the Board of Appeals who feels they have a conflict of interest on any matter that it is on the Board agenda shall voluntarily recuse themselves, vacate their seat and refrain from discussing and voting on the item(s) as a Board of Appeals member.

Section IV. Staff Support to the Board of Appeals

- A. A Staff Report shall be provided by the Director of Planning or their designee for every application to the Board of Appeals. Staff shall advertise all cases in a local newspaper of general circulation, shall notify adjacent property owners by mail and shall post a zoning notice on the property. The staff shall insure that a court reporter and recording secretary are available for all cases before the Board.
- B. It shall be the charge of the Director of Planning to obtain technical assistance for the Board, as needed, from other departments and agencies including Harford County Planning & Zoning, Bel Air Department of Public Works, Bel Air Volunteer Fire Company, Office of the Fire Marshall, Bel Air Police Department, Harford County Public Schools, Harford Soil Conservation, Harford County Health Department, State Highway Administration and any other appropriate agency.

- C. The recording secretary shall keep a record of all persons who participate; shall record and prepare minutes of the proceedings; shall take note of the person on the Board making a motion; the person seconding that motion, shall record the votes taken; and shall note the time of opening and adjournment of the Board. The recording secretary shall provide written minutes of the Board proceedings prior to the next regularly scheduled meeting.

Section V. Determinations

- A. Form of Decision. Final decisions of the Board of Appeals shall be made in writing in the form of a decision duly entered and signed by the Chair, the Vice-Chair, or their designated representative.
- B. Decision. Within sixty (60) days of the closing of the hearing, unless an extension is agreed upon in writing by all parties, the Board shall make its decision and give notice of the decision.
- C. Conditions Imposed. Whenever the Board imposes a condition of a decision, the condition must be stated in the written order of the Board. Such written order shall remain valid only if the condition or conditions upon which it was granted exist.
- D. Notice of Decision. All parties in interest shall receive a copy of the written decision of the Board of Appeals.
- E. Appeal. The applicant or any person with standing concerning a case before the Board of Appeals may appeal the decision to Circuit Court within thirty (30) days of the written decision.

Section VI. Records

- A. Required Records. The Board of Appeals shall keep a record of its decisions, transactions, findings and determinations; this record shall be public record apart from any closed sessions.
- B. Maintenance of Records. The Town Planning Department or its designee shall be the custodian of the Board of Appeals records and shall file such in the office of the Town. All minutes of meetings and records of other official action shall be a public record except for any closed sessions.

- C. Recordings. All recordings of Board proceedings shall be preserved for a period of at least one (1) year.
- D. Approval of minutes. Minutes of any meeting are considered 'draft' and not posted on the Town website or entered into record until they are approved at a subsequent meeting of the Board of Appeals within 90 days of the subject meeting.
- E. Maintenance of Docket. The Town Planning Department or its designee shall: Maintain a docket, post the agenda on the Town website and Town Hall for public review; Note each application under an appropriate caption; and Shall record thereafter by suitable and appropriate entries the decisions on the application.

Section VII. Adoption and Amendment of Rules and Regulations

- A. Adoption. These Rules and Regulations shall hereby be adopted when approved by a majority of the Board of Appeals members.
- B. Amendment. The Board of Appeals may from time to time amend any part or parts of these Rules and Regulations by a majority vote of the Board members.

Adopted by the Bel Air Board of Appeals on _____, 2021

ATTEST:

BOARD OF APPEALS MEMBERS

 Zoning Administrator
 Kevin L. Small

Rick Gerety

Brian 'Greg' Adolph

Robert Preston

Thomas Payne

Shannon Abel

Brendan Hopkins

Signature

Printed Name

APPENDIX B

OPEN MEETINGS ACT
(Summary)

2021

TOWN OF BEL AIR PLANNING COMMISSION
BEL AIR, MARYLAND

**COMPLIANCE CHECKLIST
FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT**

Name of public body _____ Date of Meeting: _____

1. ___ Did you give “reasonable advance notice” and keep a copy or screenshot?
2. ___ Did you make an agenda available when notice was posted, or, if not yet determined, as soon as practicable, but at least 24 hours before the meeting?
3. ___ Did you make arrangements for the public to attend?
4. ___ Is someone prepared to keep minutes in writing or, otherwise, to run the equipment for minutes in the form of live and archived video or audio streaming?
5. ___ If part of this meeting might be closed to the public, have you first:
 - ___ Made sure that the public body has designated a member to take training in the Act?
 - ___ Made sure that the topic to be discussed falls entirely within one or more of the “exceptions” that allow the closed session? (see the other side for the list)
 - ___ Given notice of the open meeting to be held right before the closed session, so that the presiding officer can hold the required public vote to close?
 - ___ Made sure that the initial open meeting will be attended by a member designated to take training in the Act, and, if a designated member cannot attend, made sure that the public body is ready to complete this compliance checklist at the open meeting and keep it to attach to the minutes?
 - ___ Equipped the presiding officer to prepare a written statement with the required disclosures?
 - ___ Equipped the presiding officer to limit the closed session discussion to the exceptions and topics cited on the written closing statement?
 - ___ Arranged for closed-session minutes to be kept and adopted as sealed?
 - ___ Equipped someone in the closed session to keep a record of each item of information that must be disclosed in the minutes of the next open meeting.

(for the list, see the model closing statement).

- ____ For a meeting recessed to hold a closed administrative session, arranged to disclose, in the minutes of the next open meeting, the date, time, and place, persons present, and subjects discussed?
6. ____ Have you arranged for the preparation, the adoption as soon as practicable, and posting online if practicable, of minutes of the open meeting, including summaries of any prior closed sessions, and this form (when required), completed on this side?

EXEMPTIONS PERMITTED UNDER STATE LAW
CLOSED SESSION
Bel Air Board of Appeals

START TIME: _____ END TIME: _____

PLACE: _____

SUBJECT: _____

AUTHORITY: ANNOTED CODE OF MARYLAND, GENERAL PROVISIONS
ARTICLE, SECTION 3-305(b)

PURPOSE: To Discuss

- _____ 1. The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal or resignation of appointees, employees or officials over whom it has jurisdiction; or any other personnel matter that affects 1 or more specific individuals.
- _____ 2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business;
- _____ 3. To consider the acquisition of real property for a public purpose and matters directly related thereto;
- _____ 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand or remain in the state;
- _____ 5. To consider the investment of public funds;
- _____ 6. To consider the marketing of public securities;
- _____ 7. To consult with counsel to obtain legal advice;
- _____ 8. To consult with staff, consultants or other individuals about pending or

potential litigation;

- _____ 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- _____ 10. To discuss public security, if the public body determines that public discussion would constitute a risk to the public or public security, including:
 - a. the deployment of fire and police services and staff; and
 - b. the development and implementation of emergency plans;
- _____ 11. To prepare, administer or grade a scholastic, licensing or qualifying examination;
- _____ 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- _____ 13. To comply with a specific constitutional, statutory or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- _____ 14. To discuss, before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- _____ 15. To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to:
 - a. security assessments or deployments relating to information resources technology;
 - b. network security information, including information that is:
 - i. Related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;
 - ii. Collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
 - iii. Related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the

- vulnerability of a network to criminal activity; or
- c. deployments or implementation of security personnel, critical infrastructure, or security devices.

APPENDIX C

CODE OF ETHICS

2021

TOWN OF BEL AIR PLANNING COMMISSION
BEL AIR, MARYLAND

Chapter 43 Ethics, Code of

[HISTORY: Adopted by the Board of Town Commissioners of the Town of Bel Air 3-19-2012 by Ord. No. 749-12. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel — See Ch. 82.

§ 43-1 Applicability.

[Amended 11-5-2012 by Ord. No. 755-12]

The provisions of this chapter apply to all officials, candidates, employees, and appointees to boards and commissions of the Town of Bel Air.

§ 43-2 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUSINESS ENTITY

Any partnership, association, corporation, firm, institution, trust, foundation, sole proprietor, or other organization (except the state and the Town of Bel Air or any agency thereof), whether or not operated for profit.

CANDIDATE

A person filing for election to a municipal office.

COMPENSATION

Money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered.

FINANCIAL INTEREST

Ownership of an interest as the result of which the owner has received within the past three years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year; or an official, employee or spouse of an official or employee has ownership of more than 3% of a business entity.

GIFT

The transfer of anything of economic value, regardless of form, without adequate and lawful consideration. A gift does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with the Election Law Article of the Annotated Code of Maryland or any other state law regulating the conduct of elections or the receipt of political contributions.

INTEREST

Any legal or equitable economic interest that is owned or held, in whole or in part, jointly or severally, directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition. However, "interest" shall not include an interest held in the capacity of an agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter; an interest in a time or demand deposit in a financial institution; an interest in exchange-traded funds (like a mutual fund); an interest in an insurance policy, endowment policy, or annuity contract by which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or some other specified period; or a common trust fund or a trust that forms part of a pension or a profit-sharing plan that has more than 25 participants and is determined by the IRS to be a qualified trust or college savings plan under the Internal Revenue Code.

[Amended 12-3-2018 by Ord. No. 787-18]

OFFICIAL or EMPLOYEE

Any Town Commissioner of the Town of Bel Air or person employed by and receiving compensation from the Town of Bel Air in any capacity; or on boards or commissions of the Town.

[Amended 11-5-2012 by Ord. No. 755-12]

QUALIFYING RELATIVE

A spouse, parent, child or sibling.

REAL PROPERTY

Land owned, leasehold interest, or option to purchase.

TOWN AGENCY

Any Town office, department, institution, board, commission or corporation which is recognized as a branch or segment of Town government, either by the Town Charter or by any ordinance or resolution of the Town.

[Amended 11-5-2012 by Ord. No. 755-12]

TRANSACTION INVOLVING THE TOWN OF BEL AIR

Any proceeding, application, submission, request for filing or other determination, any contract, claim or case, any sale or purchase, any computer transfer of moneys or information, or other such matter that the Town of Bel Air or any of the agencies, boards, commissions and offices thereof may be a party to or in which the Town of Bel Air may reasonably be expected to be a party.

[Amended 11-5-2012 by Ord. No. 755-12]

§ 43-3 Board of Ethics.

- A. The Board of Ethics is hereby established for the purpose of administering this Code of Ethics and recommending necessary changes to the Board of Town Commissioners from time to time. The Board of Ethics shall consist of five Town of Bel Air residents, not less than 21 years of age, who shall be appointed by the Board of Town Commissioners of Bel Air. Members shall serve staggered four-year terms and shall be removed only for cause. No member of the Board shall be otherwise an official or employee of the Town of Bel Air, nor shall any member receive compensation.

- B. The Board of Ethics of Bel Air shall:
 - (1) Devise, receive, and maintain all forms required by this chapter.
 - (a) Forms include:
 - [1] Conflict of interest form.
 - [2] Financial disclosure form.
 - [3] Gifts disclosure form.
 - [4] Lobbying registration form.
 - (b) Completed forms will be received by the Town Clerk and forwarded to the Board of Ethics within 10 days of receipt.
 - (c) All completed forms will be maintained on file at the Town Clerk's office for a period of four years.
 - (2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them.
 - (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter.
 - (4) Conduct a public information program regarding the purposes and application of this chapter.

- C. The Town Attorney shall advise the Board of Ethics.

- D. The Board of Ethics shall certify to the State Ethics Commission, on or before October 1 of each year, that the Town is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

- E. The Board of Ethics shall determine if changes to this chapter are required to be in compliance with the requirement of State Government Article, Title 15, of the Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Bel Air Board of Town Commissioners for enactment.
- F. The Board of Ethics may adopt other policies and procedures to assist in the implementation of the programs established in this chapter.

§ 43-4 Conflicts of interest.

A. Participation prohibitions.

(1) Except as permitted by the regulations or opinion of the Board of Ethics of the Town of Bel Air, an official or employee may not participate in:

(a) Any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee, has an interest, except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter.

(b) Any matter in which any of the following is a party, except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter:

[1] A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

[2] A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

[3] A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative of the official or employee is negotiating employment or has any arrangement concerning prospective employment;

[4] A business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative, if the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee;

[5] A business entity doing business with the Town in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

[6] A business entity:

[a] Which the official or employee knows is a creditor or obligee of the official or employee or of a qualified relative of the official or employee with respect to a thing of economic value; and

[b] In which a creditor or obligee of the official or employee or of a qualified relative of the official or employee is in a position to directly and substantially affect the interest of the official or employee or of a qualified relative of the official or employee.

(c) A case, contract, or other specific matter, legislative or otherwise, for one calendar year after terminating their lobbyist registration(s) if they previously assisted or represented another party in the matter. [Added 12-3-2018 by Ord. No. 787-18]

[1] Does not apply to uncompensated or minimally compensated elected or appointed officials or employees earning less than \$4,000 in a twelve-month period.

(2) A person who is disqualified from participating under Subsection A(1)(a) and (b) shall disclose the nature and circumstances of the conflict using a conflict of interest form sufficiently in advance of the action and may participate or act if:

(a) The disqualification leaves a body with less than a quorum capable of acting;

(b) The disqualified official or employee is required by law to act; or

(c) The disqualified official or employee is the only person authorized to act.

(3) The prohibitions of Subsection A(1)(a) and (b) do not apply if participation is allowed by regulation or opinion of the Board of Ethics.

B. Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Board of Ethics, when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(a) Be employed by or have a financial interest in an entity: [Amended 11-5-2012 by Ord. No. 755-12]

[1] Subject to the authority of the official or employee or the Town agency, board or commission with which the official or employee is affiliated; or

- [2] Which is negotiating or has entered a contract with the agency, board or commission with which the official or employee is affiliated; or
 - (b) Hold any other employment or relationship which would impair the impartiality or independence of judgment of the official or employee.
- (2) This prohibition does not apply to:
- (a) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
 - (b) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Board of Ethics; [Amended 11-5-2012 by Ord. No. 755-12]
 - (c) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Board of Ethics; or
 - (d) Employment or financial interests allowed by regulation of the Board of Ethics if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

C. Post-employment limitations and restrictions.

- (1) A former official or employee may not assist or represent any party other than the Town for compensation in a case, contract, or other specific matter involving the Town if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) Until the conclusion of the next regularly scheduled meeting of the Board of Town Commissioners that begins after the elected official leaves office, a former official or member of the Bel Air Board of Town Commissioners may not assist or represent another party for compensation in a matter that is the subject of legislative action.
- (3) Elected or appointed Town officials and employees may not engage in lobbying legislative matters for one calendar year after leaving office or employment with the Town of Bel Air. [Added 12-3-2018 by Ord. No. 787-18]

- D. Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation (i.e., dependent or conditioned by something happening) in any matter before or involving the Town.
- E. Use of prestige of office.
- (1) An official or employee may not intentionally use the prestige of the office or public position for the private gain of that official or employee or the private gain of another.
 - (2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.
 - (3) An official or employee may not inappropriately influence the award of a government contract to a specific person. [Added 12-3-2018 by Ord. No. 787-18]
 - (4) An official or employee may not initiate a solicitation for a person to retain the compensated services of a particular lobbyist or firm. [Added 12-3-2018 by Ord. No. 787-18]
 - (5) An official or employee may not use public resources or title to solicit a political contribution regulated in accordance with the State of Maryland Election Law Article. [Added 12-3-2018 by Ord. No. 787-18]
- F. Solicitation and acceptance of gifts.
- (1) An official or employee may not solicit any gift.
 - (2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.
 - (3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:
 - (a) Is doing business with or seeking to do business with the Town office, agency, board or commission with which the official or employee is affiliated; [Amended 11-5-2012 by Ord. No. 755-12]
 - (b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
 - (c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
 - (d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

- (4) Notwithstanding Subsection F(3) of this subsection, an official or employee may accept the following:
- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - (b) Ceremonial gifts or awards that have insignificant monetary value;
 - (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
 - (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
 - (e) Gifts or tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
 - (f) A specific gift or class of gifts that the Board of Ethics exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature;
 - (g) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
 - (h) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.
- (5) Subsection F(4) does not apply to a gift:
- (a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
 - (b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or
 - (c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

- G. Disclosure of confidential information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.
- H. Participation in procurement.
 - (1) An individual or a person that employs an individual who assists a Town agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.
 - (2) The Board of Ethics may establish exemptions from the requirements of this section for providing descriptive literature, sole-source procurements, and written comments solicited by the procuring agency.

§ 43-5 Financial disclosure: elected officials (incumbents) and candidates to be elected officials.

This section applies to all elected officials and candidates to be elected officials.

- A. Except as provided in Subsection **C** of this section, an elected official or a candidate to be an elected official shall file the financial disclosure form, provided by the Board of Ethics, required under this section:
 - (1) Under oath or affirmation; and
 - (2) With the Board of Ethics.
- B. Deadlines for filing financial disclosure forms.
 - (1) An incumbent elected official shall file a financial disclosure form annually, no later than April 30 of each year for the preceding calendar year.
 - (2) An individual who is appointed to fill a vacancy in an office for which a financial disclosure form is required and who has not already filed the form shall file a financial disclosure form for the preceding calendar year within 30 days after appointment.
 - (3) An individual who, other than by reason of death, leaves an office for which a financial disclosure form is required shall file the complete form within 60 days after leaving the office.

C. The statement shall cover:

- (1) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
- (2) The portion of the current calendar year during which the individual held the office.

D. Candidates to be elected officials.

- (1) Except for an official who has filed a financial disclosure form under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure form each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
- (2) A candidate to be an elected official shall file a financial disclosure form required under this section:
 - (a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy; or
 - (b) If the year of the election is different from the year the certificate of candidacy was filed, on or before April 30; and
 - (c) In all other years for which a statement is required, on or before April 30.
- (3) A candidate to be an elected official:
 - (a) May file the required financial disclosure form under Subsection D(2)(a) of this section with the Town Clerk or Board of Ethics with the certificate of candidacy or prior to filing the certificate of candidacy; and
 - (b) Shall file the financial disclosure form required under Subsection D(2)(b) and (c) of this section with the Board of Ethics.
- (4) If a candidate fails to file a financial disclosure form required by this section after written notice is provided by the Town Clerk or Board of Ethics, the candidate is deemed to have withdrawn the candidacy.
- (5) The Town Clerk and Board of Ethics may not accept any certificate of candidacy unless a financial disclosure form has been filed in proper form.
- (6) Within 10 days of the receipt of a financial disclosure form required under this section, the Town Clerk shall forward the statement to the Board of Ethics.

E. Public record.

- (1) The Town Clerk's office shall maintain all completed financial disclosure forms filed under this section.
- (2) Financial disclosure form shall be made available during normal office hours for examination and copying by the public, subject to administrative procedures and reasonable fees, as established in the Town's Fee Schedule passed by the Board of Town Commissioners.
- (3) If an individual examines or copies a financial disclosure form, the Town Clerk shall record:
 - (a) The name and home address of the individual reviewing or copying the statement; and
 - (b) The name of the person whose financial disclosure form was examined or copied.
- (4) Upon request by the official or employee whose financial disclosure form was examined or copied, the Board of Ethics shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure form.
- (5) Retention requirements. The Town Clerk's office shall retain financial disclosure forms for four years from the date of receipt.
- (6) The home address of the elected official or candidate to be an elected official, as identified by the individual, shall be redacted prior to making it publicly available. This applies to all disclosure statements, whether posted on the internet or viewable only in the office. [Added 12-3-2018 by Ord. No. 787-18]

F. Contents of financial disclosure forms from incumbents and elected officials.

- (1) Interests in real property. A financial disclosure form filed under this section shall include a schedule of all interests in real property, wherever located. For each interest in real property, this schedule shall include:
 - (a) The nature of the property and the location, by street address, mailing address or legal description, of the property.
 - (b) The nature and extent of the interest held, including any conditions and encumbrances on the interest;
 - (c) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

- (d) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - (e) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
 - (f) The identity of any other person with an interest in the property.
- (2) Interest in corporations and partnerships. A financial disclosure form filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the Town.
- (a) Interests reported under this subsection need not include exchange-traded funds (ETF), such as mutual funds. [Added 12-3-2018 by Ord. No. 787-18]
 - (b) For each interest reported under this subsection, the schedule shall include:
 - [1] The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
 - [2] The nature and amount of the interest held, including any conditions and encumbrances on the interest;
 - [3] With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred; and
 - [4] With respect to any interest acquired during the reporting period:
 - [a] The date when, the manner in which and the identity of the person from whom the interest was acquired; and
 - [b] The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

- (c) An individual may satisfy the requirement to report the amount of the interest held by reporting, instead of a dollar amount:
 - [1] For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or
 - [2] For an equity interest in a partnership, the percentage of equity interest held.

- (3) Interests in business entities doing business with the Town. A financial disclosure form filed under this section shall include a schedule of all interests in any business entity that does business with the Town, other than interests reported under Subsection **F(2)**. For each interest reported under this subsection, the schedule shall include:
 - (a) The name and address of the principal office of the business entity;
 - (b) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;
 - (c) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and
 - (d) With respect to any interest acquired during the reporting period:
 - [1] The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - [2] The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

- (4) Gifts. A gift disclosure form filed annually under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received on or before April 30 of each year from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town. For each gift reported, the schedule shall include:
 - (a) A description of the nature and value of the gift; and
 - (b) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

- (5) Employment with or interests in entities doing business with the Town. A financial disclosure form filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the Town. For each position reported under this subsection, the schedule shall include:
 - (a) The name and address of the principal office of the entity;
 - (b) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - (c) The name of each Town agency with which the entity is involved.
- (6) Indebtedness to entities doing business with the Town. A financial disclosure form filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the Town owed at any time during the reporting period:
 - (a) By the individual; or
 - (b) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
- (7) For each liability reported under this subsection, the financial disclosure form shall include:
 - (a) The identity of the person to whom the liability was owed and the date the liability was incurred;
 - (b) The amount of the liability owed as of the end of the reporting period;
 - (c) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - (d) The security given, if any, for the liability.
- (8) A financial disclosure form filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.

- (9) Sources of earned income.
- (a) A financial disclosure form filed under this section shall include a schedule of:
- [1] The name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was sole or partial owner and from which the individual or a member of the individual's immediate family received earned income, at any time during the reporting period.
- (b) A minor child's employment or business ownership need not be disclosed if the Town does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.
- (c) An elected or appointed official or employee, or candidate for such position, of the Town of Bel Air, whose spouse is or was a regulated lobbyist, within one calendar year of said position or candidacy, must disclose the entity or entities that engaged the spouse to lobby. [Added 12-3-2018 by Ord. No. 787-18]
- (10) A financial disclosure form filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

§ 43-6 Financial disclosure: employees and appointed officials.

A. This section applies to the following employees:

[Amended 11-5-2012 by Ord. No. 755-12]

- (1) Town Administrator.
- (2) All department heads.
- (3) All deputy department heads.
- (4) All information technology personnel.
- (5) Armory Facilities Manager.
- (6) Financial Officer.
- (7) All planners.
- (8) Chief of Operations.
- (9) Facilities Manager.
- (10) Assistant Chief of Operations.

(11) Shop Supervisor.

(12) Sanitation Supervisor.

- B. A financial disclosure form under this section shall be filed with the Board of Ethics under oath or affirmation.
- C. On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a gift disclosure form disclosing gifts, as defined in § 43-4, that were received during the preceding calendar year from any person that contracts with or is regulated by the Town, including the name of the donor of the gift and the approximate retail value at the time of receipt.
- D. Submitting a conflict of interest form to the Board of Ethics, an official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.
- E. The Board of Ethics shall maintain all financial disclosure forms filed under this section as public records available for public inspection and copying as provided in § 43-5E, entitled "Public Records," and § 43-5E(5), entitled Retention Requirements, of this chapter.
- F. For the purpose of § 43-5F of this chapter, the following interests are considered to be the interests of the individual completing the financial disclosure form:
- (1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
 - (2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.
 - (3) An interest held by a trust or an estate in which, at any time during the reporting period:
 - (a) The individual held a reversionary interest or was a beneficiary; or if a revocable trust, the individual was a settlor.
 - (4) An interest disclosed under this subsection need not include exchange-traded funds (ETF), such as mutual funds. [Added 12-3-2018 by Ord. No. 787-18]
 - (5) Indebtedness disclosed under this subsection only applies to debts to entities doing business with or regulated by the individual's governmental unit. [Added 12-3-2018 by Ord. No. 787-18]

- G. The Board of Ethics shall review the financial disclosure forms submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the form of any omissions or deficiencies.
- H. The Town Board of Ethics may take appropriate enforcement action to ensure compliance with this section.
- I. The home address of the employee or appointed official, as identified by the individual, shall be redacted prior to making it publicly available. This applies to all disclosure statements, whether posted on the internet or viewable only in the office.
[Added 12-3-2018 by Ord. No. 787-18]
- J. An elected or appointed official or employee, or candidate for such position, of the Town of Bel Air, whose spouse is or was a regulated lobbyist, within one calendar year of said position or candidacy, must disclose the entity or entities that engaged the spouse to lobby. [Added 12-3-2018 by Ord. No. 787-18]

§ 43-7 Lobbying.

- A. A lobbyist shall file a lobbying registration form with the Board of Ethics on or before the later of January 15 of the calendar year or within five days after first performing an act that requires registration in the calendar year with the Board of Ethics if the person:
 - (1) Personally appears before a Town official or employee with the intent to influence that person in the performance of the official duties of the official or employee; and
 - (2) In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of \$100 on food, entertainment, or other gifts for officials or employees of the Town.
- B. The lobbying registration form covers a defined registration period, not to exceed one calendar year, and shall identify:
 - (1) The registrant;
 - (2) Any other person on whose behalf the registrant acts; and
 - (3) The subject matter on which the registrant proposes to make appearances specified in this section.
- C. Within 30 days after the end of any calendar year during which a person was registered under this section, the person shall file a written report with the Board of Ethics disclosing:
 - (1) The value, date, and nature of any food, entertainment or other gift provided to a Town official or employee; and

- (2) If a gift or series of gifts to a single official or employee exceeds \$100 in value, the identity of the official or employee.
- D. The Board of Ethics shall maintain the registrations and reports filed under this section as public records available for public inspection and copying at the Town Clerk's office for four years after receipt by the Board of Ethics.
- E. A lobbyist who serves on a Town of Bel Air board, commission, or committee must submit financial disclosure forms that mirror the forms for elected officials. [Added 12-3-2018 by Ord. No. 787-18]

§ 43-8 Exemptions and modifications.

[Amended 11-5-2012 by Ord. No. 755-12]

The Board of Ethics may grant exemptions and modifications to the provisions of §§ 43-4 and 43-6 of this chapter to employees and to appointed members of the Town Board and commissions when the Board of Ethics finds that an exemption or modification would not be contrary to the purposes of this chapter and the application of this chapter would:

- A. Constitute an unreasonable invasion of privacy; and
- B. Significantly reduce the availability of qualified persons for public service.

§ 43-9 Enforcement.

- A. The Board of Ethics may issue a cease-and-desist order against any person found to be in violation of this chapter.
- B. Upon a finding of a violation of any provision of this chapter, the Board of Ethics may:
 - (1) Issue an order of compliance directing the respondent to cease and desist from the violation;
 - (2) Issue a reprimand; or
 - (3) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.
- C. If the Board of Ethics finds that a respondent has violated § 43-7 of this chapter, the Board of Ethics may:
 - (1) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under § 43-7 of this chapter;

- (2) Suspend the registration of an individual registered lobbyist if the Board of Ethics finds that the lobbyist has knowingly and willfully violated § 43-7 of this chapter or has been convicted of a criminal offense arising from lobbying activities.
- D. Upon request of the Board of Ethics, the Town Attorney may file a petition for injunctive or other relief in the Circuit Court of Harford County, or in any other court having proper venue, for the purpose of requiring compliance with the provisions of this chapter.
 - E. The court may:
 - (1) Issue an order to cease and desist from the violation;
 - (2) Void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public.
 - F. The court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.
 - G. In addition to any other enforcement provisions in this chapter, a person who the Board of Ethics or a court finds has violated this chapter:
 - (1) Is subject to termination or other disciplinary action; and
 - (2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Board of Ethics or a court.
 - H. The Town official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.
 - I. Violation of § 43-7 of this chapter shall be a misdemeanor.
 - J. Fines of § 43-5, 43-6, or 43-7 shall be approved by a resolution that is passed by the Board of Town Commissioners.
 - K. A finding of a violation of this chapter by the Board of Ethics is public information.

APPENDIX D

BOARD OF APPEALS PROCESS CHARTS
AND SAMPLE MOTION

2021

TOWN OF BEL AIR BOARD OF APPEALS
BEL AIR, MARYLAND



POWERS OF THE BOARD OF APPEALS

§ 165-12 Board of Appeals

The Board of Appeals, as established by the Bel Air Town Code, consists of five Town citizens and one alternate, appointed by the Board of Town Commissioners for a term of three years each. The Chair is elected annually by the Board of Appeals members. The Board's operations are limited to the independent review of specific land use questions. The Board is charged with the following powers and duties:

- A. Hear appeals from a decision or interpretation rendered by the Zoning Administrator.
- B. Grant or deny special exceptions pursuant to Article **XII** of this chapter.
- C. Grant or deny variances pursuant to Article **XII** of this chapter.
- D. Grant authorization to expand or extend nonconforming uses and/or structures.
- E. Hear appeals and requests for variances from the requirements of Chapter **210**, Floodplain Management, Article **VII**, Variances, of the Bel Air Town Code.
- F. Hear appeals from a decision rendered by the Historic Preservation Commission in accordance with the Land Use Article of the Annotated Code of Maryland.
[Amended 4-3-2017 by Ord. No. 780-17]



REQUEST FOR VARIANCE

Variances are heard before the Bel Air Board of Appeals. Minor variance requests are heard before the Zoning Administrator. The petitioner presenting his/her case should be prepared to explain completely and thoroughly how the petition meets the requirements set forth in Article XII, Section 165-92 of the Bel Air Development Regulations.

§ 165-92. Variances

- A. General. The Board of Appeals is authorized to grant variances from the terms of the Town of Bel Air Development Regulations as provided in Article 66B of the Annotated Code of Maryland. Minor variances as specified in Subsection H of this section may be approved by the Zoning Administrator or his/her designee.
- B. Special regulations.
 - (1) In order to grant a variance, the Board of Appeals or the Zoning Administrator or his/her designee, whichever is applicable, must find, by clear and convincing evidence, each of the following:
 - (a) Uniqueness. The subject property has an inherent characteristic or condition not generally shared by other surrounding properties, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, practical restrictions imposed by abutting properties or the uses thereon, or other restrictions.
 - (b) Practical difficulty.
 - [1] Strict compliance with the Town of Bel Air Development Regulations would unreasonably prevent the applicant from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; however, that the granting of the variance would make the property more profitable is not sufficient reason to grant a variance.
 - [2] Granting the variance would do substantial justice to the applicant, as well as to other property owners in the area.
 - [3] The variance can be granted in such a way that the spirit of the Town of Bel Air Development Regulations will be observed, and public safety and welfare secured.
 - [4] The practical difficulty is caused by the property's uniqueness and is not personal to the applicant nor the result of acts of the applicant, the property owner, or his/her predecessor in title.
 - (2) If a lesser relaxation than that applied for will give substantial relief to the

applicant and be more consistent with justice to other property owners, the Board of Appeals is authorized to grant that lesser relief.

- C. Conditions of approval. In authorizing a variance, the Board of Appeals or Zoning Administrator or his/her designee, whichever is applicable, may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as may be deemed necessary in the interest of the furtherance of the purposes of the Town of Bel Air Development Regulations and in the interest of the public. In authorizing a variance with attached conditions, the Board of Appeals or Zoning Administrator or his/her designee, whichever is applicable, shall require such evidence, guarantee or bond as may be deemed necessary to ensure that conditions attached are being and will be complied with.
- D. Lapse of variance. After the Board of Appeals or Zoning Administrator or his/her designee, whichever is applicable, has granted a variance, the variance so granted shall lapse two years from the date of the final decision. However, no lapse shall take place if the change of use has taken place, if the construction of buildings has been completed or if a good faith commencement of construction has occurred and substantial, visible construction has taken place in accordance with the plans for which such variance was granted. Within 30 days of the expiration of the two-year period, or any extension previously granted, the property owner may submit an application to the Board of Appeals or Zoning Administrator or his/her designee, whichever is applicable, requesting one additional extension for a period of one year. The Board of Appeals or Zoning Administrator, whichever is applicable, may grant an extension upon good cause shown.
- E. Existing variance modifications and amendments. The requirements of the Town of Bel Air Development Regulations shall not apply to any variance approved prior to enactment of the Town of Bel Air Development Regulations or amendments thereto. Any modifications or amendments to a variance approved prior to the enactment of the Town of Bel Air Development Regulations which are not in accordance with the terms of the Town of Bel Air Development Regulations shall require approval of the Board of Appeals pursuant to Subsection C of this section.
- F. Resubmission of variance. Substantially identical variance requests may not be resubmitted for a period of one year after the final decision.
- G. Modification of a variance. The procedure for modification of a variance already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

H. Administrative variance approvals.

- (1) The Zoning Administrator is authorized to hear variance requests for minor screening, landscaping, fencing provisions related to type, location and height of these accessory uses and for modifications of setback or lot width requirements of not more than 10%. Upon receipt of an application, a public hearing shall be scheduled before the Zoning Administrator or his/her designee. The property would then be posted, with a notice of the request and hearing date, at least seven days before the hearing. The applicant and adjoining property owners shall be given notice of the hearing date and time at least 10 days prior to the public hearing.
- (2) In determining his/her decision, the Zoning Administrator or his/her designee shall follow the Board of Appeals procedures outlined in Subsections A through G of this section. A written decision shall be provided to the applicant within 30 days of the closing of the public hearing, unless an extension, detailed in writing, is agreed upon by all parties. At the hearing, any party may appear in person or by agent or attorney. Any party adversely affected by a decision of the Zoning Administrator or his/her designee may appeal to the Board of Appeals. The appeal must be filed within 30 days of the Zoning Administrator's decision. The Zoning Administrator would then schedule a new hearing before the Board of Appeals which would be heard in the same manner as an original application to the Board of Appeals (de novo).



REQUEST FOR SPECIAL EXCEPTION

Special Exceptions are heard before the Bel Air Board of Appeals. The petitioner presenting his/her case to the Board should be prepared to explain completely and thoroughly how the petition meets the requirements set forth in Article XII, Section 165-93 of the Bel Air Development Regulations.

§ 165-93. Special Exceptions

- A. General. Recognizing that a special exception is a use legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the Board of Appeals shall have the power to hear and decide special exception requests in accordance with the provisions of the Town of Bel Air Development Regulations. Additionally, prior to approving a special exception request, the Board of Appeals must find that there would be no adverse impact caused by approval of the request.
- B. Conditions of approval.
- (1) In connection with any approval of any request, the Board of Appeals may require the installation of such devices and methods of operation as may be reasonably required to prevent adverse effects from the proposed use, including but not limited to hazardous or congested traffic conditions, odor, smoke, dust, gas, noise or other similar nuisances. The Board of Appeals may impose such other conditions as may be necessary to protect adjacent properties and neighborhoods from adverse effects of the use.
 - (2) The conditions may include but are not limited to:
 - (a) Prohibition against outside signs or advertising structures, except professional or directional signs.
 - (b) Limitation of signs as to size, type, color, location or illumination.
 - (c) Specification of the amount, direction and location of outdoor lighting.
 - (d) Number and location of off-street parking and loading space.
 - (e) Requirements related to the building construction, design and materials, including, but not limited to, roof design, building connection and disconnection with other units, location of exits, doors and windows and cleaning or painting of building.
 - (f) Requirements related to paving, shrubbery, landscaping, ornamental or screening fences, walls and hedges.
 - (g) Specification of permitted hours of operation.
 - (h) Prohibition of structural changes.
 - (i) Requirements related to the control and elimination of smoke, dust, gas,

- noise or vibration caused by the use.
- (j) Requirements for termination of a use, based on a lapse of time, as permitted by law.
 - (k) Specification of required improvements to ingress and egress.
 - (l) Specification of required improvements to street frontage.
 - (m) Requirements of specific fire and safety improvement.
 - (n) Requirements for improvements to intersections adjacent to the proposed development.
- (3) In authorizing a special exception, the Board of Appeals shall require such guarantee or bond as it may deem necessary to ensure compliance with all the conditions imposed on the approval.
- C. Lapse of special exception. After the Board of Appeals has approved a special exception, the special exception so approved or granted shall lapse two years from the date of the final decision. However, no lapse shall take place if the change of use has taken place, if the construction of buildings has been completed or if a good faith commencement of construction has occurred and substantial, visible construction has taken place in accordance with the plans for which such special exception was granted. Within 30 days of the expiration of the two-year period, or any extension previously granted, the property owner may submit an application to the Board of Appeals requesting an additional extension or extension for a period of one year. The Board of Appeals may grant an extension upon good cause shown.
- D. Existing special exception: modifications and amendments. The requirements of the Town of Bel Air Development Regulations shall not apply to any special exception approved prior to enactment of the Town of Bel Air Development Regulations or amendments thereto. Any modifications or amendments to a special exception approved prior to the enactment of the Town of Bel Air Development Regulations which are not in accordance with the terms of the Town of Bel Air Development Regulations shall require the approval of the Board of Appeals pursuant to this section.
- E. Revocation of permits. Special exception approvals may be revoked by the Board of Town Commissioners, in accordance with the provisions of § 165-20E herein, for failure to comply with conditions of approval or applicable regulations.
- F. Guarantees. The Board of Appeals may require a bond, irrevocable letter of credit, or other appropriate guarantee as may be deemed necessary to ensure satisfactory performance with regard to all or some of the conditions of the special

exception.

- G. Discontinuance of use. When an approved special exception of a building, structure or land has ceased operation for one year, the special exception approval of the building, structure or land shall automatically expire.
- H. Resubmission of special exception. Substantially identical special exception requests may not be resubmitted for a period of one year after the final decision.
- I. Modification of special exception. The procedure for modification of a special exception already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application.

MOTION TO APPROVE VARIANCE

I move the Variance requested by _____ related to _____ on the property located at _____ be approved based on the testimony provided by the applicant and review of Section 165-93 of the Bel Air Development Regulations that application of the code for the proposed development as applied to the subject property:

- The property is unique with characteristics not generally shared with other surrounding properties based on _____
- Will create a Practical Difficulty:
- That strict compliance with the code would unreasonably prevent the applicant from using the property or be unnecessarily burdensome based on _____
- The granting the Variance will do substantial justice to the applicant and surrounding neighborhood _____
- That granting the Variance as proposed will allow the spirit of the code to be observed _____
- The practical difficulty or property uniqueness is not the result of any action by the applicant _____

MOTION TO CONTINUE HEARING

I move the public hearing for the Special Exception request by _____ be tabled until the next regularly scheduled _____

meeting of the Board of Appeals on _____ 6:00 pm in Town Hall.

MOTION TO DENY VARIANCE

I move the Variance requested by _____ related to _____ on the property located at _____ be denied based on the following:

- The property is not unique and has characteristics generally shared with other surrounding properties based on _____
- The applicant does not suffer Practical Difficulty:
- Because strict compliance with the code would not unreasonably prevent the applicant from using the property or be unnecessarily burdensome based on _____
- Granting the Variance will not do substantial justice to the applicant or the surrounding neighborhood _____
- Granting the Variance would not be consistent with the spirit of the code _____
- The practical difficulty and/or property uniqueness is the result of action by the applicant _____

MOTION TO TABLE DECISION

I move the decision regarding the Variance request by _____ be tabled until the next regularly scheduled meeting of the Board of Appeals on _____ 6:00 pm in Town Hall.

MOTION TO APPROVE SPECIAL EXCEPTION

I move the Special Exception requested by _____
to permit _____ on the property located at
_____ be approved based on the Board’s finding that the
proposed use, as described in hearing testimony would not adversely impact the
surrounding neighborhood because:

- The applicant has satisfied performance standards in Section _____ for

- The applicant has addressed the applicable limitations, guides and standards
found in section 165-91 of the Bel Air Development Regulations.

Approval is conditioned on the following:

- All necessary site and building permits are acquired
- Issuance of a Use & Occupancy Certificate
- _____

MOTION TO CONTINUE HEARING

I move the public hearing for the Special Exception request by _____
_____ be tabled until the next regularly scheduled

meeting of the Board of Appeals on _____ 6:00 pm in Town Hall.

MOTION TO DENY SPECIAL EXCEPTION

I move the Special Exception requested by _____
to permit _____ located at
_____ be denied based on the following:

The proposed Communication Tower will create an adverse impact to the neighborhood because:

- The applicant has not satisfied applicable limitations, guides and standards found in section 165-91 of the Bel Air Development Regulations because _____

- The applicant has not satisfied performance standards in Section _____ related to _____
- _____

MOTION TO TABLE DECISION

I move the decision regarding the Special Exception request by _____
_____ be tabled until the next regularly scheduled meeting of the Board of Appeals on _____ 6:00 pm in Town Hall.