

# **CODE OF BALTIMORE REGULATIONS ANNOTATED**

*Regulations Effective as of January 15, 2021*

## **Title 23 BOARD OF MUNICIPAL AND ZONING APPEALS**

Published by  
Baltimore City Department of Legislative Reference  
Avery Aisenstark, Director  
2022

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For Information:  
Department of Legislative Reference  
City Hall  
100 N. Holliday Street, Suite 626  
Baltimore, Maryland 21202  
Tel: (410) 396-4730  
<https://legislativereference.baltimorecity.gov/>

**Title 23 BOARD OF MUNICIPAL AND ZONING APPEALS**

**SUBTITLE 01 EMERGENCY REGULATIONS**

**[CHAPTER 01 RULE RESOLUTION STATE OF EMERGENCY AMENDMENT](#)**

**SUBTITLE 02 BOARD OF MUNICIPAL AND ZONING APPEALS RULES**

**Subtitle 01 EMERGENCY REGULATIONS**

CHAPTER 01 RULE RESOLUTION STATE OF EMERGENCY AMENDMENT

Administrative History

Effective Date: May 5, 2020

## **BMZA Rule Resolution 2020-001: Virtual Public Hearings, May 5, 2020**

"HEREINAFTER, public hearings of the Board of Municipal & Zoning Appeals will be conducted using an appropriate web-based platform at the scheduling and the discretion of the Director with the express purpose of providing a forum for public hearings while maintaining due process standards in accordance with state and local law. Public hearings will include web-based participation and a telephone access call-in feature so that participants and the general public may fully observe and fully participate in the public hearing in full compliance with the Open Meetings Act, and all state and local laws. Board members, participants, and all interested persons who attend the virtual hearing by web platform or by telephone will be deemed physically present for all purposes under the law. Board members, participants, and all interested persons who attend the virtual hearing by web platform or by telephone will be deemed as appearing "in person" for all purposes under the law. Notice of virtual hearings will continue to be provided sufficient under current law. This resolution is effective immediately and with continue in full force and effect until 30 days after the rescinding of any state of emergency."  
BMZA Rule Resolution 2020-002: 10-day callback (reconsideration), May 5, 2020.

"HEREINAFTER, for the purpose of providing a procedural safeguard to ensure due process of law and to mitigate any public access impediments to attending virtual BMZA public hearings, the Director has proposed the implementation of a 10-day call-back period in which any member of the general public having legal standing to challenge the authorization or denial of a zoning appeal may make written request to the Board within 10 calendar days after a public hearing. Requests under this rule are limited to procedural challenges of the procedures utilized during public virtual hearings. Requests under this rule are limited to members of the public who were unable to attend a virtual hearing due to technical inability or unavailability or lack of notice. Requests will be reviewed within 5 calendar days and will automatically trigger BMZA Rule G, Reconsideration and Clarification."

**Subtitle 02 BOARD OF MUNICIPAL AND ZONING APPEALS RULES**

Administrative History

Effective Date: February 9, 2016

**Rules of the Baltimore City  
BOARD OF MUNICIPAL AND ZONING APPEALS**

**Adopted on February 9, 2016 by authority of  
Art. VII, Subsection 83(b) of the Baltimore City Charter  
and  
Title 2, Section 2-111 of the Baltimore City Zoning Code**

**A. Rules of Construction**

1. **Citation.** These Rules and Regulations may be cited as the “BMZA Rules and Regulations” or “BMZA Rules”.
2. **Definitions.** Any term used in these Rules and Regulations that is not defined herein shall adopt the meaning of the term as defined in the Baltimore City Zoning Code, and, if the term is not defined in the Baltimore City Zoning Code, the term shall be defined by its plain meaning.
3. **Conflicting provision.** If any provision of these Rules and Regulations conflicts with any provision of the Baltimore City Zoning Code, the provision in the Baltimore City Zoning Code governs.
4. **Captions or headings.** The captions or headings of the provisions of these Rules and Regulations are for convenience of reference only, They are intended to summarize the rule or regulation that follow and are not to be taken as affecting the meaning or effect of the law.
5. **Mandatory, prohibitory, and permissive terms.** Mandatory, prohibitory, and permissive terms used in these Rules and Regulations are defined in Section 1-211 of the Baltimore City Zoning Code.
6. **“Applicant”.** In these Rules and Regulations, “Applicant” means the owner of the property in question before the Board, the applicant of the appeal, or any other duly authorized representative of the owner or applicant.
7. **“Board” and “BMZA”.** In these Rules and Regulations, “Board” and “BMZA” mean the Board of Municipal and Zoning Appeals.
8. **“Chairperson”.** In these Rules and Regulations, “Chairperson” means the Chairperson of the Board.
9. **“Director”.** In these Rules and Regulations, “Director” means the Executive Director of the Board or any Deputy Director of the Board.

## B. General Rules

1. **Office location.** The office of the Board is 417 E. Fayette St., Suite 1432, Baltimore, MD 21202.
2. **Positive appeals.** Appeals on applications for permits that have been disapproved and applications which have been referred to the Board by the Zoning Administrator shall be known as “Positive Appeals.”
3. **Negative appeals.** Appeals contesting the issuance of permits, which have been approved by the Zoning Administrator, shall be known as “Negative Appeals.”
4. **Mandatory appeal fee.** The applicant shall pay a non-refundable appeal fee as set by the Board.
5. **Appeal period.** All appeals from the action of the Zoning Administrator shall be noted within ten (10) working days from the date of the action appealed from and in the manner hereinafter prescribed. The date of the decision of the Zoning Administrator shall not be counted, but the last day shall be counted.

## C. Positive Appeals

1. **Filing.** At the time of filing an appeal, applicants filing a positive appeal shall submit to the Office of the Board the following documents from the Department of Housing and Community Development:
  - (i) A copy of the completed Permit Application(s) disapproved by the Zoning Administrator’s Office;
  - (ii) A copy of the completed Application for Review to the Board; and
  - (iii) A copy of the Notice of Appeal.
2. **Statement.** The applicant shall provide a written statement that demonstrates with adequate supporting evidence how the proposed plans or resulting structure(s) or use(s) conform to the standards set forth in the Zoning Code of the City of Baltimore.
3. **Submission - Site plan.** At the time of filing an appeal, applicants filing a positive appeal shall submit to the Office of the Board a site plan in addition to any other required submittals in this section, in accordance with the following rules:
  - (i) *Applicability.* A site plan must be provided at the discretion of the Director or Chairperson, and in cases involving:
    - (a) New construction;
    - (b) Structural alterations;
    - (c) Changes to off-street parking areas or the number of off-street parking spaces;
    - (d) Additions;
    - (e) Accessory structures;
    - (f) Increases in the number of dwellings, efficiency, or rooming units; and

- (g) Changes to the use of a property if that use requires off-street parking (e.g. churches, schools, day care centers, restaurants, carry-out establishments, car washes, etc.)
- (ii) *Form.* Six (6) copies of the site plan drawn to scale on paper no larger than eleven inches (11') by seventeen inches (17') shall be submitted to the Office of the Board indicating the following features:
  - (a) Address, block, and lot number of the property in question;
  - (b) Location, boundaries, and dimensions of the lot, with property lines;
  - (c) Use, dimensions, height and location of all existing buildings and improvements on the lot;
  - (d) Where there are exterior alterations, additions or accessory structures, they must be clearly shown with a brief but adequate addendum to indicate the proposed construction material;
  - (e) For the construction of additions: front, rear, side & cross section elevation drawings;
  - (f) Location, size, and number of off-street parking spaces, including access drives, curb cuts and any loading and unloading areas on the premises; and
  - (g) Any other feature the Director or Chairperson requires including, but not limited to, the location and dimension of fences, signs, and outdoor activities such as truck, boat, and recreation trailer storage, outdoor tables with chairs, commercial trash storage containers and other similar structures, screening and landscaping.

4. **Submission - Floor plan.** Applicants filing a positive appeal shall submit to the Office of the Board a floor plan of the structure located on the property, in addition to any other required submittals listed herein, in accordance with the following rules:

- (i) *Applicability.* A floor plan must be provided at the discretion of the Director or Chairperson, and in cases involving:
  - (a) One- or two-family dwellings;
  - (b) Increase in the number of dwelling units in new and existing multiple family dwellings;
  - (c) Uses that require the calculation of floor area and seating capacity to determine the number of off-street parking spaces required; and
  - (d) Extensions or continuations of existing nonconforming uses.
- (ii) *Form.* Six (6) copies of the floor plan drawn to scale on paper no larger than eleven inches (11') by seventeen inches (17') shall be submitted to the Office of the Board indicating the following features:
  - (a) Address, block, and lot number of the property in question;
  - (b) Dimensions of each floor and room;
  - (c) Grade, if the floor is below grade;
  - (d) Primary and Secondary egress;
  - (e) Bathroom and kitchen facilities;
  - (f) Seating areas including individual seats for assembly uses like churches, halls, theaters, etc., and individual tables and chairs for uses like restaurants, taverns, clubs, etc.;
  - (g) Storage areas;



- (h) Location, size, and number of parking lots and parking spaces within such lots; and
  - (i) Any other feature the Director or Chairperson requires.
- 5. **In-person filing and scheduling.** Applicants shall file all required documentation for positive appeals in person at the office of the Board, and the Board shall schedule any hearings at that time, unless otherwise directed by the Director.
- 6. **Notice of hearing.** After the Board schedules the hearing, the applicant must provide notice of the hearing in accordance with the following rules:
  - (i) *Notice sign.* Notice of the public hearing shall be made by posting a sign on the property that is the subject of the appeal that conforms to the following requirements:
    - (a) The sign shall not be less than four (4) feet wide by three (3) feet high;
    - (b) The sign shall be posted in a conspicuous manner not over ten (10) feet above the ground;
    - (c) The sign shall be posted on the front of the property;
    - (d) The sign shall be maintained in good condition during the required time period;
    - (e) The sign shall be typed and printed in black font on a single sheet of white paper;
    - (f) The lettering on the sign shall be no less than two (2) inches high;
    - (g) The language of the sign shall state the day, time, and place of the hearing, the assigned appeal number, the zoning district the subject property is located in, and a description of the applicant's request on appeal to the Board.
  - (ii) *Notice time period.* For any matter requiring a public hearing, the applicant shall provide notice in accordance with the requirements imposed by the Baltimore City Zoning Code and these Rules and Regulations at least twenty-one (21) consecutive days prior to the day of the hearing.
  - (iii) *Required instruction sheet.* The Board shall provide the applicant with an instruction sheet at the time the applicant schedules a hearing with the Board that details the notice requirements set out in this section and the required language to be on the notice sign.
  - (iv) *New sign upon postponement.* At the discretion of the Director, the applicant may be required to post a new sign that conforms to the requirements of this subsection (i) above, upon the granting of a postponement of a hearing to a later date. This requirement may be waived upon request to and approval by the Director. In lieu of this requirement, the Director may also compel the applicant to correct the language of the existing sign to reflect the new hearing date.
  - (v) *New sign upon violation of rules.* The Director may compel the applicant to re-post the existing sign or post a new sign upon finding that the existing sign does not meet their requirements imposed by the Baltimore City Zoning Code and these Rules and Regulations.
  - (vi) *Removal of sign.* The applicant shall remove the posted sign within 48 hours after the conclusion of the public hearing.

## D. Negative Appeals

1. **Filing.** Negative appeals shall be filed in accordance with the following procedure:
  - (i) *Applicant's letter to Board and Zoning Administrator.* Negative appeals may be noted by any person aggrieved, by filing a letter at the office of the Board within ten (10) working days of the issuance of the permit by the Zoning Administrator.
  - (ii) *Board's letter to applicant and Zoning Administrator.* Upon acceptance of a notice of a negative appeal, the Director shall direct a letter by first class U.S. mail to the applicant for or recipient of the permit in question informing him of the filing of the Negative Appeal. The letter shall also inform the applicant or recipient of the permit that any continuation of the work or use authorized by the permit by the recipient is at their own risk subject to the outcome of the Negative Appeal. A copy of this letter shall be sent to the Zoning Administrator as notice to him that a Negative Appeal has been filed.
  - (iii) *Board's letter to appellant.* The Director shall also direct a letter by first class U.S. mail to the appellant of the negative appeal, requiring him to file an Application for Review to the Board and any other information that the Director or Chairperson determines is necessary for the resolution of the Negative Appeal.
2. **Perfection.** Appellants shall have ten (10) working days from the day appellant receives a letter from the Board to perfect the negative appeal by submitting all requested documents and information. The Board or Director, upon good and sufficient reason shown, may extend the time for perfecting a negative appeal, but otherwise, negative appeals not perfected in the required time shall be dismissed at the next ensuing meeting of the Board.

## E. Public Hearings

1. **Hearing location.** Public hearings before the Board shall be held in the Board of Estimates Room, No. 215, City Hall or at a location as the Director may determine.
2. **Hearing schedule.** Public hearings shall be regularly scheduled every other Tuesday at 1:00pm, 3:00pm, or 5:00pm.
3. **Additional hearings.** Any request for a public hearing outside of the schedule as described herein shall be made in writing, considered by the Board at a regularly scheduled hearing, and granted or denied by the Board within 30 days of the receipt of the request, or at any such time as the Director or Chairman determines. The Board shall not hold more than one (1) additional hearing per calendar month.
4. **Appearance of applicant.** The applicant shall be present at the public hearing, and if he/she is not present, the Board may dismiss the case in its discretion.
5. **Subpoena.** The Board may compel the appearance of any party by subpoena at a public hearing.

6. **Postponement.** Any request for postponement of a case that has been scheduled for a public hearing must be submitted by the appellant to the Board, in writing, not less than forty-eight (48) hours prior to the date of the hearing, and must be approved by the Director. The forty-eight-hour time requirement may be waived by the Director at his/her direction.

**F. Resolution.**

1. The Board's decision on any appeal shall be memorialized in a written "resolution" which shall be issued within a reasonable time following the conclusion of a hearing and shall be sent by regular mail to the applicant and any other interested persons identified on the record. The written Resolution is the formal decision of the Board.
2. If granted an approval, an applicant has twelve (12) months from the issuance of the Resolution to obtain proper permits from the Department of Housing and Community Development. If proper permits are not obtained within twelve (12) months, the applicant may file for an extension.
3. Requests for extensions may be submitted to the office of the Board for review by the Board and granted for good cause shown. All requests must be in writing indicating the appeal case number, the subject address, the name, mailing address, and phone number of the individual requesting the extension, the reason(s) for the extension, and the length of time requested to obtain proper permits.

**G. Clarification or Reconsideration**

1. After the issuance of the Board's formal written resolution, any interested party may file a request for the Board to clarify or reconsider its decision ("Motion for Clarification and/or Motion for Reconsideration"). Any request under this Rule must be submitted in writing and filed with the Office of the Board at **Board at Board of Municipal & Zoning Appeals, 417 E. Fayette Street, Room 1432, Baltimore, Maryland 21202** within ten (10) working days after the issuance of the Board's written resolution.
2. A copy of any request to clarify or reconsider under this Rule must be sent simultaneously with the filing of the motion to any and all interested persons noting a formal objection on the record to the subject appeal. Such notice may be provided by regular mail, electronic mail, fax, or other method so long as it is reasonably intended to provide actual notice in a timely manner.
3. A request to clarify or reconsider under this Rule must articulate, in sufficient written detail, identifiable facts supporting the contention that the Board's decision was the product of any one or several of the following:
  - (i) fraud;
  - (ii) mistake;
  - (iii) irregularity;

- (iv) inadvertence;
- (v) surprise;
- (vi) clerical or typographical errors; or
- (vii) upon a showing of good cause as to the unavailability of evidence, the existence of newly discovered evidence or other pertinent evidence not available or not presented to the Board at the initial hearing.

4. Any interested person having noted their formal objection on the record may file a written response to any request to clarify or reconsider within ten (10) working days of receipt of the request to clarify or reconsider. Such written responses must be filed with the Office of the Board at **Board of Municipal & Zoning Appeals, 417 E. Fayette Street, Room 1432, Baltimore, Maryland 21202.**
5. The Board, in its discretion, may:
  - (a) clarify its decision without a hearing;
  - (b) on a Motion for Reconsideration, schedule a hearing on the motion; or
  - (c) deny the request or motion without a hearing.
6. Clerical mistakes in written resolutions may be corrected by the Board at any time on its own initiative or on motion of any party.

**H. Appeals.** Any person aggrieved by the decision of the Board may appeal the Board's decision to the Circuit Court for Baltimore City pursuant to Title 7 of the Maryland Rules.