CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Board of Zoning Appeals
Bylaws & Procedures
February 22, 2007

I. MEMBERSHIP, POWERS AND DUTIES

The membership, powers and duties of the Board are as set forth in Article 66B of the Maryland Code and in the laws and ordinances of the City of Brunswick.

II. COMPOSITION OF MEMBERSHIP

A. Number: The Board consists of three (3) members as provided by law. In addition, there is one (1) alternate member who is empowered to sit on the Board in the absence of any Member of the Board.

B. Appointment: Members are appointed by the Mayor and Council of the City of Brunswick as provided by law.

C. Term: The term of each Member is three (3) years, or as appointed by the Mayor and Council of the City of Brunswick as provided by law.

D. Chair: The Board shall elect a chair from one of its members to serve a term of one (1) year. The chair shall preside at meetings of the Board and may call special meetings of the Board, may compel the attendance of witnesses through subpoena, and may grant restraining orders to stay actions that are under appeal. The chair shall sign all official documents pertaining to Board Records.

E. Vice-Chair: The Board shall elect a vice-chair from one of its members to serve a term of one (1) year. The vice-chair shall preside over meetings in the absence of the chair and may call special meetings of the Board and may compel the attendance of witnesses through subpoena, and may grant restraining orders to stay actions that are under appeal when the chair is unable to do so and all duties required.

F. Secretary: The Board shall elect a secretary from one of its members to serve a term of one (1) year. The Secretary shall prepare or have prepared written minutes of all meetings for approval by the Board and oversee the maintenance of the Board's Records.

G. Alternate: The Alternate shall have all powers and duties of a regular Board member when sitting on a case.

III. FILING OF APPLICATIONS

A. An official application, inclusive of all required documents, for a special exception, variance or administrative appeal may be filed at any time prior to 3:00 P.M. during normal business hours.

B. All applications for a special exception or variance shall include plot plans and/or sketches and other information necessary for proper consideration of the application. Such drawings shall clearly depict the distance from appropriate property lines to any proposed structure and shall clearly show the relationship between any proposed variance and any appropriate property line. The location of any required parking spaces shall be clearly shown with respect to property lines and/or structures, as appropriate.

C. Administrative appeals to the Board must be filed within twenty (20) days after the date of the administrative decision from which an appeal is taken. Time shall be computed from the date of the written notice of the decision. The Board, however, may decide, on a unanimous vote of the sitting members, to hear an administrative appeal filed after the expiration of the 20-day filing period if the Board determines that special conditions exist.

D. If a grant of a special exception is denied or withdrawn with prejudice, no new application for the denied user on the same property shall be accepted for six (6) months after the decision denying or withdrawing the previous

E. Any application for special exception withdrawn without prejudice or dismissed prior to hearing without prejudice may be re-filed pursuant to procedures set forth above.

F. Applications for special exception seeking a different use with regard to property, which has been the subject of a previous application, may be submitted pursuant to procedures set forth above.

G. All applications for special exceptions and variances must be made by a person with a financial, contractual or proprietary interest in the subject property. The Board may require proof of such interest. If there is a conflict in those interests, the person with controlling interest or legal right shall determine if an application is to be filed.

NOTE: Specific details on the filing of applications are delineated in the Board of Appeals filing procedures.

VI AGENDA/NOTICES

The agenda of applications and appeals to be heard shall be maintained by the Secretary or his/her designee and shall be available for public inspection during normal business hours.

V. HEARINGS AND MEETINGS

A. Time and Place of Hearings: The Board holds regular hearings on the fourth Thursday of every month at 7:00 P.M., or at such other time as the Board may designate. Special meetings are held upon the call of the Chair. Dates of the public hearings shall be on the signs on the property, which is the subject of special exception, variance or claim of administrative error before the Board. Notices shall be sent by mail to the applicant and adjoining property owners as required by law and these rules.

B. Quorum: A minimum of two members of the Board shall be required to conduct hearings or any business of the Board. The Chair shall have the right to make or second motions and may vote.

C. Continuance of Hearing: Hearings may be continued from time to time, and time and place of the continued hearing shall be publicly announced at the time of the continuance. No further notice of such continued hearing shall be required; otherwise, notice thereof shall be given as in the case of the original hearing. The Board may grant a continuance at the public hearing for good cause shown.

D. Order of Business: Meetings of the Board may be conducted in the following manner:

1. Approval of the minutes of previous meeting(s).
2. Overview of the hearing procedures presented by the Chair.
3. Old business.
4. New business.
5. Board matters.
6. Adjournment.

E. Procedure: The hearing of cases shall be conducted in the following manner:

1. All persons wishing to offer testimony on the case should sign up prior to the case being called and shall be sworn in. Only sworn testimony will be considered.
2. Staff report and agency comments shall be presented and made a part of the record.
3. Applicant, appellant, or agent shall present the request to the Board.
4. Testimony in support of the application or appeal.
5. Testimony in opposition to the application or appeal.
6. Additional relevant testimony neither in support or opposition to the application or appeal.
7. Letters relevant to the case shall be noted for and made a part of the record.
8. Rebuttal testimony by the applicant, appellant or agent if opposition of testimony is presented.

In each case, the applicant or appellant shall have a twenty (20) minute presentation period. Groups recognized by the Chair shall have ten (10) minutes and individuals shall have four (4) minutes. The Chair may grant extensions of the time limits unless an objection is raised by a board member. Board members and the staff may question the presenter or witness at any time

during the hearing; in addition, the Chair may direct a person to respond to a question of the Board. Cross-examination of witnesses as to relevant material is allowed, as required by law, with the Chair presiding.

The rules of evidence applicable to administrative hearings as set forth by the Court of Appeals of Maryland shall apply generally. The Board shall conduct hearings in a manner best calculated to afford all parties an opportunity to present their positions and to serve the ends of justice and fairness. The Board may make such rulings as may be necessary to conduct the hearing in an efficient and orderly manner including, but not limited to, imposing time limitations and excluding irrelevant or repetitive evidence. Appellants and applicants are bound by any legal proffers or evidence offered and adopted by the Board as a condition or reason of the Findings and Decision.

F. Identification of Parties: All persons appearing to testify or submit evidence shall identify themselves on the sign-up sheet provided by staff and again at the podium by name, address and any person or entity they represent. Designated spokesperson for groups shall identify themselves as such as well.

G. Determination By Vote at Hearing: Two votes are required to grant an application or an appeal. Failure to obtain two votes shall have the effect of a denial. The Board may impose conditions on a grant of a special exception or variance petition, as provided by law.

H. Decision: The Board shall grant or deny each application or appeal in writing: Each grant or denial shall set forth a summary of facts found and reasons for the decision relevant to the pertinent criteria. The Secretary shall prepare or have prepared a written Resolution for each grant of a special exception, variance or administrative appeal. The decision does not become official and final until signed by all members of the Board who heard the case, usually at the regularly scheduled meeting the month following the hearing(s).

I. Record: An electronic transcript (tape recording of the hearing) shall be kept by a recording device, and the audiotape shall be preserved as a public record for a period of three years. The recording may be transcribed stenographically or copied electronically by any interested person at his/her own expense by arrangement with and under the supervision of the Secretary of the Board or his/her designee. If there are discrepancies between recordings, the Board's recording is the official recording. The only official written transcript is that approved by the Secretary.

J. Minutes: Written minutes, showing the disposition of all cases and showing the vote of each member upon the question, shall be approved by the Board, shall be signed by the Chair or their designee, and kept by the Secretary or Acting Secretary. The signed minutes shall be a public record available for inspection.

VI. WITHDRAWAL OF APPLICATION

Applicants may withdraw an application at any time. If an applicant submits and then withdraws an application for appeal, the applicant shall be precluded from filing another application for substantially the same proposal concerning the same property for six (6) months from the date of withdrawal of the application.

VII. RECONSIDERATION

The Board may entertain a request for reconsideration of a decision.

A. Parties with a financial, contractual, or proprietary interest, or who became a party of record at the initial hearing may request reconsideration. Such a request must be in writing, must be received within two weeks after the oral decision of the Board and must set forth the reasons for the request. The party requesting reconsideration shall also give a written notice to any person who is a party or who became a party in the matter at the public hearing. Verification of this notice being sent must be presented to the Board at the time of the written request. No action on any request will be taken except upon a motion by a Board member.

B. A Board member (whether or not on the prevailing side of a question or at the initial hearing) may make a motion for reconsideration at any Board meeting prior to the final signing of the decision.

If the Board agrees to reconsider a decision and conduct a hearing, such hearing shall not be scheduled any sooner than the Board's next regular meeting, subject to the notice requirements. When a reconsideration hearing is scheduled, notice shall be given as in the case of the original hearing, and shall include any persons who are parties or who became parties at the original hearing. No additional posting of fees will be required with the exception of advertising, postage, and administrative expenses.

VIII. APPEALS TO THE COURTS

A final decision may be appealed to the Circuit Court as provided for in the State and City laws. Appeal times begin from the signed, written decision of the Board.

IX. CONDUCT OF BOARD MEMBERS

A. Speaking for the Board A member shall not appear to speak for the Board except as authorized by the Board. In any public or private statement concerning Board affairs, members will carefully indicate whether they are speaking for the Board or for themselves.

B. Gratuities and Entertainment Members shall not accept gifts or compensation from any persons involved in matters which have come before the member while on the Board or in matters that it is reasonable to assume may come before the Board.

C. Privileged Information Members shall not engage in any business transaction in regard to which they have an advantage because of information gained through membership on the Board.

D. Conduct at Meetings Members shall conduct themselves at Board meetings in a fair, understanding and gracious manner. They shall seek to be considerate of all individuals, attitudes and differences of opinion involved in official Board business.

X. DEFINITIONS

A. Definitions: The definitions found in Article 4 of the City of Brunswick Ordinance shall apply to these bylaws.

XI. RULES NOT JURISDICTIONAL

These rules of procedure do not constitute jurisdictional requirements. Failure of the Board, its staff, or any party to comply with any provisions of these rules of procedure shall not invalidate any otherwise valid decisions or action of the Board.

XII. These by-laws and procedures supercede all such pervious procedures. The Board may approve changes to these procedures at any regularly scheduled monthly meeting.

Adopted by the Board of Appeals this 22nd day of February, 2007.

Dawn J. Page, Chair

Patricia M. O'Brien, Vice Chair

Wayne R. Hawes, Secretary

Barbara Jean Baker, Alternate Member