

PRINCE GEORGE'S COUNTY PLANNING BOARD RULES OF PROCEDURE

Approved by the Prince George's County Planning Board
PGCPB Resolution No. 08-71

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January 28, 1988
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May 15, 2008

RULES OF PROCEDURE
for the
PRINCE GEORGE'S COUNTY PLANNING BOARD
of
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

SECTION 1 – Purpose

The purpose of these Rules is to establish procedures for the conduct of hearings in all cases in which a final decision is made by the Prince George's County Planning Board as required by law. These rules also apply to all other cases heard by the Planning Board for the purpose of making formal recommendations for consideration by the Zoning Hearing Examiner or County Council.

SECTION 2 – Notice

Notice of all hearings held pursuant to these Rules shall be in accordance with provisions of the Zoning Ordinance and/or Section 3 – Notice, as provided in the Administrative Practice for the Prince George's County Planning Department, whichever is applicable.

SECTION 3 – Preliminary Action

Upon convening the hearing a brief explanation of the purpose of the hearing shall be presented, together with any information or data which has been received, before public discussion and comments begin. The case file shall be a part of the record and shall be available to the public at reasonable times.

SECTION 4 – Information from the Public

The presiding officer may prescribe procedures for registration of speakers and may require that each person come forth and state the following information:

- (a) name,
- (b) address, and
- (c) person or organization he represents.

The presiding officer may announce reasonable time limitations and registration requirements for speaker so that all may have any opportunity to be heard.

SECTION 5 – Cross-Examination

The presiding officer shall permit any party of record to ask questions of a witness at the conclusion of that witness' testimony. Questions should be limited to information presented by the witness. In other words, it is not appropriate for a person to testify or

question a witness on a subject not testified to on the record by that witness. The presiding officer may also limit the number of questions to a single representative of each side.

SECTION 6 – Recess to Another Time and Place

Any public hearing may be recessed to an announced time and place or posted at the time and place of the original location for which original notice has been given. Thereafter, no further notice shall be necessary.

SECTION 7- Evidence

Although not restricted by the formal rules of evidence, certain rules will be followed, such as:

- (a) hearsay evidence, if relevant, may be accepted into the record,
- (b) an objection to testimony will be sustained only for the most compelling reasons in order to provide wide latitude to a witness, and
- (c) an objection to testimony must be made at the time that testimony is presented or will be considered waived.
- (d) the Board may take administrative notice of matters in common knowledge or expertise in reaching a decision on a case.

SECTION 8 – Closing the Record

Unless otherwise determined by the Board, the record will remain open until the final decision is made. Once the record is closed, no additional information will be received except for good cause shown and a showing that it is material.

SECTION 9 – Ex Parte Communication

- (a) A member of the Planning Board may not communicate ex parte, or outside of the record, with any person regarding the merit of a pending contested case. The members may, however, communicate with each other, staff or with legal counsel.
- (b) Any member of the Planning Board who receives an ex parte communication in violation of subsection (a) shall place on the record all written communications received, a memorandum stating the substance of all oral communication received and responses made, and shall arrange notification to all parties of record that such communication has been filed. Any party desiring to rebut an ex parte communication shall be allowed to do so upon request made within five (5) days after notice of the

communication. Any Planning Board member may, if he deems it necessary to eliminate the effect of a prohibited ex parte communication, withdraw from the proceeding.

SECTION 10 – RECONSIDERATION

- a. A request to reconsider a decision of the Planning Board may be made by a party of record within fourteen (14) calendar days after the date of notice of the final decision. Requests for reconsideration shall be made in writing with copies sent to all parties of record at the same time such request is sent to the Planning Board. If the Board does not grant reconsideration within thirty (30) calendar days after receipt of the request, or at the next hearing scheduled if no hearing is scheduled within thirty (30) days of the receipt of the request, it is denied.
- b. Any member of the Planning Board who voted with the majority on the original proposal may move for reconsideration within thirty (30) calendar days. If no such member remains on the Board, the motion may be made by the Chairman, on his own initiative, or at the request of any Board member.
- c. If the staff or a member of the Planning Board is of the opinion that an item is appropriate for reconsideration by the Board, they shall arrange to have such plans on the agenda for discussion purposes.
- d. All parties of record shall be mailed notice of the date at which the Planning Board will consider the request for reconsideration. Such notice shall be mailed at least ten (10) days prior to the scheduled meeting.
- e. Reconsideration may only be granted if, in furtherance of substantial public interest, the Board finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence or other good cause.
- f. If a motion to reconsider is adopted, notice of the hearing date shall be sent to all parties of record at least ten (10) days prior to the scheduled hearing. In addition to the mailing, notice may be given by the placing of a sign or signs on the property in accordance with the general locational and legibility requirements specified in Section 27-125.03 of the Zoning Ordinance. Such signs shall be posted for a minimum of thirty (30) continuous days prior to the scheduled hearing. Signs shall be removed by the applicant within 15 days after the hearing in accordance with the *Process Guidelines For Development Review Applications*.
- g. A request for reconsideration shall not operate to extend any appeal times provided by applicable law.

SECTION 11 – Order of Presentation and Recommendation

- (a) Staff,
- (b) Other Public Agency(ies),
- (c) Applicant's case,
- (d) Opposition's case,
- (e) Rebuttal by Applicant,
- (f) Summation by each side and staff

SECTION 12 – Rules, Changes and Supplements

- (a) Suspension of Rules:

The suspension of any Rule shall require the concurrence of four (4) members of the Board. However, if there is a vacancy on the Board at the time of the hearing, then a two-thirds concurrence is required to suspend the Rule. The motion on suspension is debatable but does not permit discussion of the main question. The motion can neither be reconsidered, tabled or postponed and, while it is pending, no other motion can be made except to adjourn. A separate suspension of the Rules shall be necessary for each proposition.

- (b) Repeal or Amendment of Rules:

A motion, order or resolution to repeal or amend a Rule of the Planning Board shall not be considered or acted upon unless it is submitted in writing to the Board at least two (2) weeks prior thereto, together with the written text of any proposed amendment. The repeal or amendment of any rule of the Board shall require the concurrence of a majority of members present and voting .

- (c) Robert's Rules of Order:

The rules of parliamentary practice and procedure as set forth in the latest published edition of Robert's Rules of Order, as amended, shall govern the Board in all cases to which these Rules of Procedure apply.

SECTION 13 – Final Decisions, Resolution and Appeal Rights

- (a) Form – A final decision in a contested case shall be reflected in the form of a resolution. The mailing date of Resolution shall be considered the date of the final decision for purposes of reconsideration requests and appeals.

- (b) Contents – The resolution reflecting the final decision of the Planning Board shall contain separate statements of:
 - (i) the findings of fact,
 - (ii) conclusion of law, and
 - (iii) appeal rights of the applicant and parties of record.
- (c) Time for Filing – The resolution reflecting the Board’s decision shall be completed and filed with the Board within twenty-one (21) calendar days of the Board’s decision.