

Article 30. Zoning Approvals, Variances, and Appeals

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30-1 APPLICATION

A. Filing and Pre-Application Conference

1. All zoning applications shall be filed with the Department of Planning & Zoning. The application shall be on forms provided by the County and filed as required by the instructions.
2. Prior to formal submittal of an application, a pre-application conference with the Department of Planning & Zoning is encouraged, but not required. The purpose of a pre-application conference, which does not require a formal application or fee, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the application. However, certain applications may require a pre-application conference if specified by the established policies or procedures.

B. Completeness Review

1. The application shall include all information, plans, and data as specified in the application requirements and/or established checklists. Any required plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal, unless specifically required to be at a set scale.
2. The Department of Planning & Zoning will examine all applications within 15 working days of filing to determine completeness. If the application does not include all the submittal requirements for the application, the Department of Planning & Zoning will reject the application and provide the applicant with the reasons for the rejection. The Department of Planning & Zoning will take no further steps to process the application until all deficiencies are remedied.

C. Fees

Each application shall be accompanied by the required filing fee. The failure to pay such fee when the application is submitted is grounds for the application to be deemed incomplete. If an application is submitted by any County agency, organization, board, or commission then fee requirements are waived.

D. Withdrawal of Application

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a commission, board, or official. The applicant shall submit a request for withdrawal in writing or make a request to withdraw orally during the hearing. There will be no refund of fees.

E. Consideration of Successive Applications

The following restrictions apply to the applications and approvals addressed in this Article.

1. Within one year of the date of a denial, a subsequent application for the same zoning approval will not be accepted for review and consideration unless there is substantial new information available or if there is a substantial change from the previous design or proposal, or if a significant mistake of law or of fact affected the prior denial.

2. If the application is resubmitted earlier than one year from the date of denial, the subsequent application shall include a detailed statement of the grounds justifying its reconsideration.
3. The Zoning Officer, Board of Appeals Administrator, or Planning Commission Administrator where applicable will determine whether the subsequent application is appropriate for resubmittal prior to the expiration of the one year wait requirement. If the Zoning Officer, Board of Appeals Administrator, or Planning Commission Administrator finds that there are no new grounds for consideration of the subsequent application, they will summarily, and without hearing, deny the request.

30-2 DEVELOPMENT PLANS

A. Purpose

Development plan approval is required in order to ensure that new development complies with all Ordinance and agency requirements, promoting the health, safety, and general welfare of Calvert County residents. Development plans are reviewed for compliance with the Zoning Ordinance, Subdivision Regulations, and Town Center Zoning Ordinances, and consistency with the Comprehensive Plan, Town Center Master Plans, and design standards.

B. Applicability

Three types of development plans are subject to review: Category I site plans, Category II site plans, and plot plans. Where there is question regarding which category applies to the development, the Zoning Officer will make the determination.

1. Site Plans (Conceptual and Detailed Site Development Plans)

a. Development Requiring Site Plan Review

- i. All commercial, industrial, and institutional development unless a plot plan is required by item 2 below.
- ii. Commercial uses that intensify the use or alter the traffic pattern.
- iii. Adaptive re-use from residential to commercial.
- iv. Multi-family dwellings, townhomes, attached dwellings (three units or more), assisted living facilities, and manufactured home communities.
- v. Places of worship.
- vi. Public facilities and quasi-public facilities.
- vii. Development requiring site plan review as per the conditions of the use in Articles 18 and 19 of this Ordinance.

b. Category I Site Plans

Category I site plans are site plans for multi-family, single-family attached (three units or more), and manufactured home communities. Institutional, local governmental, commercial, mixed-use, and industrial development are also Category I site plans if any of the following criteria are met:

- i. The cumulative square footage of any new construction (new buildings and additions to existing buildings and parking areas) is more than 7,500 square feet.
- ii. The vehicular traffic within an existing development project will be altered.
- iii. An automobile filling and/or service station.
- iv. A use with a drive-through/drive-up service.

c. Category II Site Plans

Category II site plans are for all other development not specified in item b above or in item 2 below, and shall include but not be limited to:

- i. Telecommunications facilities, which may include such structures as communication towers, antennas, and accessory structures.
- ii. Farm buildings and structures for commercial, agritourism, ecotourism, and heritage tourism uses.
- iii. Parking lot modifications.

2. Plot Plans

The following development requires plot plan review:

- a. Single-family homes and single-family attached dwellings (two units only)
- b. Single-family residential projects and/or additions
- c. Residential accessory uses
- d. Home occupations
- e. Minor commercial remodeling without additions
- f. Minor commercial accessory uses (a minor accessory use does not intensify a use or alter the traffic pattern)
- g. Farm buildings and structures not for commercial, agritourism, ecotourism, and heritage tourism uses
- h. Development requiring plot plan review as per the conditions of the use in Articles 18 and 19 of this Ordinance.

C. Authority

1. Planning Commission Review of Category I and Category II Conceptual and Detailed Site Development Plans

- a. The Planning Commission reviews and either approves or denies all Category I and Category II site plans, and any major revisions thereto.
- b. The Planning Commission may delegate to the Planning Commission Administrator the authority to review and either approve or deny Category I detailed site development plans and any revisions thereof, Category II conceptual site plans and Category II detailed site development plans and any revisions thereof subject to the following:
 - i. The Category I detailed site development plans shall reflect the approved Category I conceptual plan and any conditions imposed by the Planning Commission.
 - ii. Any major modifications or deviations in the submitted detailed site development plan from its approved conceptual site plan shall require approval by the Planning Commission or its designee.
- c. If the Planning Commission delegates authority, the Planning Commission shall review the decision of the Planning Commission Administrator upon the request of any person aggrieved by the decision. Such request shall be received by the Planning Commission within 30 days of the date of the Planning Commission Administrator's final decision.

2. Department of Planning & Zoning Review of Plot Plans

- a. The Zoning Officer or its designee will review and either approve or deny plot plans and revisions to plot plans. The Zoning Officer shall determine when a plot plan requires site plan review, based upon the criteria in Section 30-2.B above.
- b. The Zoning Officer or its designee will determine the submittal requirements for proposed modifications to approved plot plans. Where new drawings are determined to be required, they shall be submitted to the Division of Inspections and Permits for distribution of the revised plans to appropriate agencies for comments, consideration, and approval or rejection.

D. General Design Standards

Minimum design standards and alternatives are established to protect and preserve the appearance, character, and value of surrounding properties and neighborhoods, thereby promoting the general welfare. Article 25 of this Ordinance establishes design standards for residential and non-residential developments.

E. Procedure

1. The Planning Commission Administrator, in cooperation with the Director of the Department of Public Works and the Director of Planning & Zoning, will establish appropriate procedures and application forms necessary to ensure adequate review and processing of conceptual and/or detailed site development plans in a timely manner, including a submittal timeframe. Procedures shall be approved by the Planning Commission. Review fees are set by the Board of County Commissioners.
2. The Department of Planning & Zoning shall establish and make available a detailed checklist of all items to be submitted with conceptual site plans, detailed site development plans, and plot plan applications. The application shall include all information, plans, and data as specified in the application requirements and established checklists.
3. Conceptual site plan review and approval is mandatory for all development listed in Section 30-2.B.1 above. A conceptual site plan shall be approved for all Category I and Category II development prior to submittal of a detailed site development plan application. Recommendations and comments received during conceptual review may change during subsequent review of the detailed site development plan.
4. When a development is required to obtain both site plan and subdivision approval, the applicant may request to combine the conceptual site plan and conceptual subdivision plan into one application as an initial or revised concept application. Only the conceptual site development plan fee shall be required for combined conceptual plan submittals.
5. Detailed site development plan review and approval is mandatory for all development listed in Section 30-2.B.1 above. Final detailed site development plan approval shall be obtained prior to the issuance of building permits for all Category I and Category II development.
6. No structural development associated with a site plan or plot plan may be constructed under a grading permit alone (e.g., parking lots, ball fields, playground bathrooms, accessory structures, etc.) prior to receiving final plan approval.
7. Prior to approval of any Category I or Category II site plan by either the Planning Commission, or its designee, and in accordance with the Land Use Article of the Annotated Code of Maryland, comments shall be requested from the review agencies included in the Technical Evaluation Group (TEG) as maintained by the Department of Planning & Zoning.
8. A plat or a stamped survey from a registered surveyor may be required when zoning approval and/or the approval of all or part of a site plan and/or plot plan requires the determination of the location of, or relationships among, existing and proposed physical and/or legal site conditions. Such physical conditions include, but are not limited to, structures, roadways, wetlands, slopes, water bodies, and cliff edges. Such legal site conditions include, but are not limited to, property lines, lateral lines, easements, harbor lines, buffers, setbacks, rights of way, and zoning lines.
9. All site plans and related documents must be signed and sealed by a civil engineer registered in the state of Maryland.

F. Phased Development

1. If a development is to be constructed in sections or phases, then those sections or phases shall be shown on the detailed site development plan for review and approval. The sections or phases shall be numerically labeled and included in the sequence of construction.
2. Bonding for the development may be in whole or by phase, provided that the bonding amounts adhere to the approved phasing plan.

3. If an applicant wishes to amend the phasing plan or sequence of construction after final approval is obtained, a revised detailed site development plan shall be submitted to the Department of Planning & Zoning for review and approval pursuant to Section 30-2.H below.
4. Building and grading permits may be issued so that two or more sections or phases are concurrently under active construction, unless prohibited by detailed site development plan approval.
5. Each phase shall be vested separately by meeting the requirements pursuant to Section 30-2.G.2 below.
6. All supplemental plans shall be consistent with the approved phasing plan.
7. For the purposes of determining minimum requirements, individual sections or phases shall not be counted as separate developments. Following the adoption of this Ordinance, when a parcel is broken up into multiple parcels for development, the minimum requirements shall be determined by the cumulative total of all parcels.

G. Expiration of Site Plan Approvals and Vesting

1. Expiration

The following expiration provisions shall apply to all site plan applications, including site plan applications submitted prior to the adoption of this Ordinance.

a. Conceptual Site Plans (Category I and Category II)

- i. An application for a conceptual site plan shall expire 12 months after it has been accepted for review unless conditional approval has been granted by the Planning Commission or its designee.
- ii. Approval of a conceptual site plan shall expire 12 months after it has been granted approval, unless a detailed site development plan application has been accepted by the Department of Planning & Zoning for distribution and review.

b. Detailed Site Development Plans (Category I and Category II)

- i. An application for a detailed site development plan shall expire 24 months after it has been accepted for review, unless final approval is granted.
- ii. Detailed site development plans shall expire 36 months after obtaining final approval, unless the criteria for vesting through construction as set forth under Section 30-2.G.2 (Vesting) below has been met.
- iii. If final approval of a detailed site development plan application is delayed due to the inadequacy of public schools or roads, expiration of the application shall be tolled during the period of inadequacy, or as required to meet adequate public facilities requirements (See the Calvert County Code, Chapter 3, Adequate Public Facilities Requirements, as amended from time to time).

c. Extension of Conceptual Site Plan and Detailed Site Development Plan Approvals

- i. One 12-month extension for each of the time periods listed in Section 30-2.G.1.a (Conceptual Site Plans) and Section 30-2.G.1.b (Detailed Site Development Plans) above may be granted by the planning commission or its designee, for circumstances beyond the control of the applicant.
- ii. A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.
- iii. If an extension of a time period described in item c.i above is granted, the vesting period provided in Section 30-2.G.2.a (Vesting Through Construction) below, shall extend for a like period.

2. Vesting

a. Vesting Through Construction

At the end of the 36 month period described in Section 30-2.G.1.b.ii above, the applicant is vested in the detailed site development plan if there is actual physical commencement of some significant and visible construction as well as the following:

- i. The commencement shall be undertaken in good faith with the intention to continue the construction and to carry it through to completion in a commercially reasonable manner.
- ii. The commencement of construction shall be pursuant to all necessary permits that have been validly issued.

b. Vesting Extension

One 12-month extension to meet the vesting criteria in item a above may be granted by the Planning Commission, or its designee, for circumstances beyond the control of the applicant.

c. Grandfathered Site Plans

- i. A grandfathered Category I detailed site development plan that has received conditional approval or a grandfathered Category II detailed site development plan that has received final approval shall be valid for 24 months after the effective approval date.
- ii. The grandfathered rights granted by this section apply only to the regulations applied to and incorporated in the detailed site development plan and not to any regulations that may have been superseded after the grant of approval.
- iii. A grandfathered Category I detailed site development plan that has not received conditional approval or a pending Category II site plan that has not received final approval shall lose the grandfathered rights granted by this section immediately upon the enactment of this provision.
- iv. No vesting extensions will be granted to grandfathered detailed site development plans.

H. Revisions after Approval of Category I and Category II Conceptual or Detailed Site Development Plans

1. Proposed revisions to any approved site plan shall be submitted to the Planning Commission Administrator.
2. The Planning Commission Administrator shall determine if the revision is major or minor. A minor revision is a revision that does not change the intensity of the use or alter the traffic pattern. A major revision is a revision that changes the intensity of the use and/or alters the traffic pattern.
3. If an approved detailed site development plan is to be revised, the applicant shall submit new plans showing the proposed revision in redline to the Department of Planning & Zoning, which will distribute the new plans to the appropriate agencies for comments. The proposed revision will be approved or denied by the Planning Commission Administrator. If the proposed revision is a major revision to an approved conceptual site plan or approved detailed site development plan, then the Planning Commission Administrator shall refer the revised plan to the Planning Commission for consideration and, if appropriate, approval.
4. Prior to the release of bonds and/or issuance of use and occupancy permits, an as-built is required to be submitted to the Department of Planning & Zoning.

I. Bonding

Before the County permits a building or property to be used, either all the work shall be completed, or the remaining work shall be bonded. In certain cases, the Department of Planning & Zoning may oversee the bond and will follow this process.

1. A proposed bond package shall be submitted by the applicant to the Department of Public Works and include the following:
 - a. A written statement indicating in detail what is to be bonded and installed/constructed at a later date.
 - b. A written cost estimate of the work not yet completed, or materials not yet installed, and proposed to be bonded.
 - c. The proposed date of completion, not to exceed one year.
 - d. The method of posting bond, which may be one of the following:

- i. A surety bond, issued by an insurance company, which indicates the length of time for which the bond or credit is good.
 - ii. A letter of credit from a financial institution chartered to do business in the State of Maryland.
 - iii. A certificate of guarantee issued pursuant to Section 1-203 of the Insurance Article of the Annotated Code of Maryland, as amended from time to time.
 - iv. Cash (currency, certified check or cashier's check). Interest earned on funds posted for a bond are retained by the County.
- e. The bond amount shall be set at 125% of the approved written cost estimate of the work.
- f. A temporary easement giving the County the right to enter onto the subject property and complete construction of the project in accordance with the specifications and plans. The easement can be in the form of a letter but shall be signed by all parties of proprietary interest and notarized. The following wordage shall be included in the easement:

"In the event that the _____ has not been completed and it is necessary for the County Commissioners to complete or have the work completed under the aforesaid bond or letter of credit, then _____ gives the County the right to enter onto the subject property and complete the construction of the project in accordance with the approved specifications and plans."

2. The proposed bond package will be processed as follows.
- a. Upon receipt of the proposed bond package, the Department of Public Works will review the submittal to verify that it is complete and proper. The County Attorney will review the bond package and the required access easement and any other appropriate information and then return the bond package with his written opinion to the Department of Public Works. Should the proposed bond package be acceptable, the bond package will then be forwarded to the County Commissioners for approval.
 - b. The Board of County Commissioners will accept or deny the proposed bond. Upon acceptance of the bond, the applicant will be notified by the Department of Public Works that he may make application in the Division of Inspections and Permits for an Occupancy Permit.
 - c. If the applicant fails to complete the work in the agreed upon time, the bond may be forfeited to the County at any time requested by the Board of County Commissioners.

30-3 ADMINISTRATIVE VARIANCE

A. Initiation

An application for an administrative variance may be filed by the owner of property to which the application applies, or other person expressly authorized by such owner in writing. However, nothing in this section prohibits an applicant from submitting an application that qualifies for an administrative variance directly to the Board of Appeals as a variance.

B. Authority

The Zoning Officer or its designee has the approval authority to grant administrative variances, subject to the following:

1. The Zoning Officer or its designee has the approval authority to grant variances from the strict application of sign height, setback, and parking requirements of this Ordinance in compliance with the thresholds of item C below. The Zoning Officer may delegate the authority to grant administrative variances to the Planning Commission Administrator if a request for an administrative variance is submitted with the review and approval of a site plan, subdivision, or administrative plat.
2. The Zoning Officer or its designee is authorized to grant variances for disturbance of trees, shrubs, plants, and specific areas considered priority for retention and protection under the Forest Conservation regulations per Section 20-18 of this Ordinance.

3. The Zoning Officer or its designee is authorized to grant variances for disturbance to steep slopes for the purposes of slope stabilization in the Critical Area (See Section 22-1.1.3) and NRPA-2 (See Section 21-1.J).
4. Administrative variances are not allowed for variances to any floodplain regulations.
5. Nothing in this section is intended to authorize the Zoning Officer or its designee to grant variances to State or local requirements that are intended to protect environmentally sensitive areas such as streams, steep slopes, wetlands, natural heritage areas, or the Critical Area except as described in items 2 and 3 above.
6. Administrative variances are not permitted for setbacks from the following: Forest Retention Areas, Natural Resource Protection Areas, Habitat Protection Areas, Critical Area Buffers, stream buffers, wetland buffers, or historic districts.
7. Administrative variances shall not be granted for after-the-fact variance requests or to correct a zoning violation. Such variance requests shall be made to the Board of Appeals.

C. Thresholds

Administrative variances are subject to the following limitations:

1. The variance shall not reduce required setbacks by more than 50 percent and in no case shall the required setback be reduced to less than five feet.
2. The parking requirements for nonresidential uses may be reduced up to 15%.
3. Proposed residential accessory structures for which a setback variance is requested shall not exceed 1,000 square feet in gross floor area.

D. Procedure

1. The Department of Planning & Zoning will establish and publish procedures for the processing of applications including, but not limited to, the following:
 - a. Upon acceptance of the application, the Zoning Officer or its designee shall mail a confirmatory notice to all affected property owners providing them with an opportunity to comment on the request within a specified time period.
 - b. Affected property owners for an administrative variance include all owners of all properties that abut the side or rear property line from which an administrative variance is sought; or in the case of an administrative variance request for a front setback adjustment, all owners of all properties that abut a side property line of the subject property and those whose properties lie directly across the street from the subject property.
 - c. The applicant shall post the property with a notice of the variance request for a period of 10 days after acceptance of the application by the Zoning Officer or its designee. The notice shall be posted within 15 feet of the boundary line of the property that abuts the most traveled County, State, or private road. If no such road abuts the property, then the sign shall be posted facing in such a manner as may be most readily seen by the public.
 - d. The Department of Planning & Zoning shall send notice of a request for a variance to the Forest Conservation regulations to the Maryland Department of Natural Resources within 15 days of receipt of a request. In addition, a copy of the final administrative variance decision or order shall be sent to the DNR Forestry Service.
 - e. The Department of Planning & Zoning shall send notice of a request for a variance to the Critical Area regulations to the Critical Area Commission within 15 days of receipt of a request. Within ten working days of the date a written decision or order is issued, a copy of the decision or order shall be sent to the Critical Area Commission.
 - f. If adverse comments are received in writing from any affected property owners objecting to the variance request, the administrative variance application shall be denied. The applicant may submit a variance request to the Board of Appeals.

- a. Any applicant aggrieved by an administrative variance decision may apply for a variance from the Board of Appeals.
- b. Any person or persons, other than the applicant, aggrieved by an administrative variance decision may file an appeal with the Board of Appeals Administrator or its designee no later than 30 days from the date of the administrative variance decision. The Board of Appeals Administrator or its designee will schedule the appeal for the next available Board of Appeals public hearing. Such an appeal will be heard de novo in accordance with Section 30-4 of this Article.
- c. Within 30 days after the date the Critical Area Commission receives an order or decision, the Commission may file a petition for Board of Appeals review of that decision. The County may not issue a permit for the activity that was the subject of the order or decision until the Commission's 30 day appeal period has elapsed.

30-4 VARIANCES

A. Purpose

The purpose of a variance is to afford an applicant relief from the requirements of the letter of the Zoning Ordinance only when unnecessary hardship or practical difficulty exists. The variance procedure does not allow variances to the types of uses allowed within the zoning districts.

B. Initiation

An application for a variance may be filed by the owner of property to which the application applies, or other person expressly authorized by such owner in writing.

C. Authority

The Board of Appeals shall have the authority to grant variances from the strict application of the lot area, lot width, setback, and height requirements of this Ordinance. The Board may also grant variances from other requirements as stipulated in this Ordinance. Variances from lot area requirements that result in an increase in residential density shall not be granted.

D. Procedure

For variances from the Critical Area, Floodplain, or Forest Conservation requirements of this Ordinance, the additional regulations of items E, F, and G below apply.

1. The Board of Appeals will establish rules of procedure which shall, at a minimum, set a reasonable time for the hearing of an appeal, provide for public notice, and set a reasonable time for rendering a decision after the hearing. An application for a variance shall be filed with the Department of Planning & Zoning. The Board of Appeals Administrator, or its designee, upon receipt of a complete application, will refer the application to the Board of Appeals.
2. Upon acceptance of a complete application, the Board of Appeals will hold a public hearing. Notice of the public hearing shall be in accordance with the rules of procedure. The Board of Appeals may approve, approve with conditions or modifications, table the application for additional information, or deny an application for a variance.
3. The Board of Appeals decision shall be made based on the following criteria:
 - a. A variance may only be granted if peculiar and unusual practical difficulties or unwarranted hardships exist on a parcel, and such difficulties and hardships are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
 - b. A variance may only be granted if the applicant demonstrates, and the Board of Appeals finds that:
 - i. The variance will not result in injury to the public interest.
 - ii. Granting the variance will not adversely affect the implementation of the Comprehensive Plan.

- iii. The variance is the minimum adjustment necessary to afford relief from the regulations.
 - iv. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant.
4. The burden of establishing whether the application meets the variance criteria under the provisions of this Ordinance is the responsibility of the applicant or the property owner.
 5. In granting a variance, the Board of Appeals may impose conditions or restrictions as it deems necessary or advisable for the protection of surrounding and neighboring properties. When appropriate, the Board of Appeals may require a written agreement to be recorded among the land records maintained by the Clerk of the Circuit Court stipulating these conditions or restrictions. Any violation of conditions imposed by the Board of Appeals is considered a violation and subject to the enforcement provisions of this Ordinance. In addition, the Board of Appeals may rescind its approval of the variance under the provisions of this article (See Section 30-6 below).
 6. A written order shall be sent to the applicant within 45 business days of the Board of Appeals rendering a decision on the variance application.

E. Forest Conservation Variances

See Section 20-18 of this Ordinance.

F. Critical Area Variances

See Section 22-9 of this Ordinance.

G. Floodplain Variances

See Section 24-6 of this Ordinance.

30-5 SPECIAL EXCEPTIONS

A. Purpose

A special exception is the granting of a specific use that would not be appropriate generally or without restriction. Approval of a special exception is based upon a finding that certain conditions as detailed in this Ordinance are met, that the use conforms to the Comprehensive Plan and is compatible with the existing neighborhood.

B. Initiation

An application for a special exception may be filed by the owner of property to which the application applies, or other person expressly authorized by such owner in writing.

C. Authority

The Board of Appeals has the authority to hear and decide applications for special exceptions.

D. Procedure

1. The Board of Appeals will establish rules of procedure which shall, at a minimum, set a reasonable time for the hearing of an appeal, provide for public notice, and set a reasonable time for rendering a decision after the hearing. An application for a special exception shall be filed with the Department of Planning & Zoning. The Board of Appeals Administrator, or its designee, upon receipt of a complete application, will refer the application to the Board of Appeals.
2. Upon acceptance of a complete application, the Board of Appeals will hold a public hearing. Notice of the public hearing shall be in accordance with the rules of procedure. The Board of Appeals may approve, approve with conditions or modifications, table the application for additional information, or deny an application for a special exception.
3. The Board of Appeals decision shall be made based on the following standards:
 - a. The proposed special exception does not adversely affect the implementation of the Comprehensive Plan for the physical development of the County.
 - b. The proposed special exception will not be detrimental to the permissible use and enjoyment of adjacent properties, or to the health, safety, or general welfare of the County.

- c. The proposed special exception will not create congestion on roads or streets, create fire hazards, tend to overcrowd land or unduly concentrate population, interfere with adequate provisions for schools, parks, water, sewerage, transportation, or other public services, or adversely interfere with the surrounding environment.
 - d. The applicant can meet the conditions required by the Board of Appeals and those specified in the Ordinance. The Board of Appeals may waive the conditions spelled out in the Ordinance if such a waiver is specifically permitted by the Ordinance.
 - e. Where the special exception is a use based upon the historic district status of the property, the proposed use will not be detrimental to the historic integrity of the property.
4. The burden of establishing whether the application meets the special exception criteria under the provisions of this Ordinance is the responsibility of the applicant or the property owner.
5. In granting a special exception, the Board of Appeals may impose conditions or restrictions it deems necessary or advisable for the protection of surrounding and neighboring properties. When appropriate, the Board of Appeals may require that a written agreement be recorded among the land records maintained by the Clerk of the Circuit Court stipulating these conditions or restrictions. Any violation of conditions imposed by the Board of Appeals are considered a violation and subject to the enforcement provisions of this Ordinance. In addition, the Board of Appeals may rescind its approval of the special exception under the provisions of this article (See Section 30-6 below).
6. A written order shall be issued no later than 45 days after the Board's final decision on the special exception application has been made.

30-6 EXPIRATION AND REVOCATION OF APPROVALS FOR ADMINISTRATIVE VARIANCES, VARIANCES, AND SPECIAL EXCEPTIONS

E. Expiration of Approvals

1. The approval of an administrative variance, variance, or special exception expires if either:
- a. The proposed use or the proposed construction has not commenced within a period of two years after the effective date the administrative variance, variance, or special exception was granted.
 - b. Where the granting of the variance or special exception has been appealed, the proposed use or the proposed construction has not commenced within two years of the date of a final order of the last circuit or appellate court to hear the matter including the granting of a variance or special exception upon the remand by a circuit or appellate court.
 - c. Where the granting of the administrative variance has been appealed to the Board of Appeals, the proposed construction has not commenced within two years of the date of a final decision by the Board of Appeals. If the Board of Appeals decision is appealed, item b above applies.
2. If the Board of Appeals finds that conditions unforeseeable at the time of the granting of the variance or special exception have occurred, it may grant an extension to the two year lapse provisions above, if application for an extension is made at least 30 days prior to the expiration date of the variance or special exception.
3. If the Zoning Officer or its designee finds that conditions unforeseeable at the time of the granting of the administrative variance have occurred, it may grant an extension to the two year lapse provisions above, if application for an extension is made at least 30 days prior to the expiration date of the administrative variance.

F. Violations and Revocations

1. The Board of Appeals has the authority to rescind approval of a variance or special exception if any conditions of approval are not met. The Department of Planning & Zoning may initiate action to have the variance or special exception rescinded according to the procedures listed below, in addition to other enforcement procedures authorized of this Ordinance.

- a. If a violation is not corrected within the time specified by a violation notice issued by the Department of Planning & Zoning, the Department may forward a copy of the violation notice to the Board of Appeals so that a public hearing can be scheduled to consider revoking the variance or special exception.
 - b. The Board of Appeals shall schedule and advertise a public hearing and notify parties of the hearing in accordance with its rules of procedure.
 - c. The public hearing is limited to consideration of issues related to the alleged violation(s).
 - d. After holding a public hearing, the Board of Appeals shall issue a written order revoking or reaffirming the variance or special exception. If the variance or special exception is reaffirmed, the Board of Appeals may amend, add to, or delete any of the conditions of the original approval. The Board of Appeals may also reaffirm the variance or special exception subject to a schedule for correction of specified violations, with provisions for automatic revocation if the property is not brought into compliance within the period specified by the schedule.
2. The Zoning Officer has the authority to rescind approval of an administrative variance if any conditions of approval are not met. The Department of Planning & Zoning may initiate action to have the administrative variance rescinded according to the procedures listed below, in addition to other enforcement procedures authorized of this Ordinance.
 - a. If a violation is not corrected within the time specified by a violation notice issued by the Department of Planning & Zoning, the Zoning Officer may issue a written notice revoking the administrative variance.
 - b. If the administrative variance is not revoked, the Zoning Officer may amend, add to, or delete any of the conditions of the original approval. The Zoning Officer may also reaffirm the administrative variance subject to a schedule for correction of specified violations, with provisions for automatic revocation if the property is not brought into compliance within the period specified by the schedule.

30-7 DECISIONS ON ALLEGED ERRORS

A. Initiation

Appeals may be filed by any person, or any officer, department, board, or bureau of the County aggrieved by any order, requirement, decision, or determination made by the Zoning Officer or any other administrative official in the administration or enforcement of this Ordinance.

B. Authority

Unless otherwise provided in this Ordinance, the Board of Appeals has the authority to hear and decide appeals where it is alleged that an error has occurred:

1. In any approval or denial of an application for a building permit.
2. In any other order, requirement, decision, or determination made by the Zoning Officer or any other administrative official in the administration and enforcement of this Ordinance. This does not include decisions made by the Planning Commission or its designee. See Section 30-10 below for appeals on Planning Commission decisions.

C. Procedure

1. An appeal shall be filed with the Board of Appeals within 30 days after issuance of the decision on which the appeal is based.
2. The Board of Appeals will establish rules of procedure which shall, at a minimum, set a reasonable time for the hearing of an appeal, provide for public notice, and set a reasonable time for rendering a decision after the hearing. At the hearing, any party may appear in person or be represented by an agent or attorney.
3. The Board of Appeals has all the powers of the Zoning Officer or administrative official from whom the appeal is taken and may:
 - a. Wholly or partly reverse the order, requirement, decision, or determination.

- b. Wholly or partly affirm the order, requirement, decision, or determination.
- c. Modify the order, requirement, decision, or determination.
- d. Issue a new order, requirement, decision, or determination.

30-8 SPECIAL ACCOMMODATIONS

A. Procedure

1. An application for a special accommodation shall be filed with the Department of Planning & Zoning. The Board of Appeals Administrator, upon receipt of a complete application, will refer the application to the Board of Appeals.
2. Accommodations for the needs of persons with disabilities may be permitted if the applicant demonstrates and the Board of Appeals finds that:
 - a. The applicant or owner of the property has a physical disability.
 - b. That literal enforcement of the provisions of this Ordinance would result in discrimination by virtue of such disability.
 - c. Special accommodations would reduce or eliminate the discriminating effect of the provisions of this Ordinance.
 - d. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property.
 - e. Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the physical disability of the applicant or the owner of the property.
3. The Board of Appeals shall determine the nature and scope of a requested special accommodation and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Ordinance. The Board of Appeals may also consider the size, location, and type of accommodation proposed and whether alternatives exist which will accommodate the need with less adverse effect.
4. The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, the property be restored to comply with all applicable provisions of this Ordinance.

30-9 RECONSIDERATIONS AND APPEALS OF BOARD OF APPEALS DECISIONS

- A.** Any person aggrieved by a decision may apply for a reconsideration of a Board of Appeals decision no later than 15 days from the date of the order.
- B.** Board of Appeals decisions may be appealed to the Circuit Court of Calvert County by any person aggrieved by any decision of the Board of Appeals; any Calvert County taxpayer; or any officer, department, board or bureau of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Title 7, Chapter 200, as amended from time to time, within 30 days of the Board of Appeals order.
- C.** If an application request is denied by a final order of the Board of Appeals, or if appealed by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order.

30-10 APPEAL OF PLANNING COMMISSION DECISIONS

Decisions made by the Planning Commission Administrator may be appealed to the Planning Commission upon written request. Appeals of decisions of the Planning Commission shall be noted in the Circuit Court of Calvert

County. Appeals to the Circuit Court shall be made in accordance with the Maryland Rules as set forth in Title 7, Chapter 200 within 30 days of the final decision of the Planning Commission.

30-11 ZONING TEXT AND MAP AMENDMENTS

A. Purpose

The regulations imposed, and the zoning district boundaries created under authority of this Ordinance may be amended from time to time by the Board of County Commissioners in accordance with the provisions of this section.

B. Initiation

1. An application for a zoning text amendment may be initiated by the Board of County Commissioners, any citizen, organization, governmental agency, or by the Planning Commission on its own initiative.
2. An application for a zoning map amendment may be filed by the owner(s) of property to which an application applies, or other person expressly authorized by such owner in writing, by the Board of County Commissioners, or by the Planning Commission.

C. Authority

The Planning Commission will make a recommendation and the Board of County Commissioners will decide upon an application for text or map amendment.

D. Procedure

Text and map amendments in the Critical Area are subject to the requirements of item E below, map amendments in the MC District are subject to the requirements of item F below, and comprehensive rezonings are subject to the requirements of item G below. In the case of conflict with the provisions of this section, the items E, F, and G, respectively, control.

1. Text or Map Amendment Applications

An application for a text or map amendment shall be filed with the Department of Planning & Zoning together with all required information and fees. The Zoning Officer, upon receipt of a complete application, will refer the application to the Planning Commission for its consideration and recommendation, to be decided upon by the Board of County Commissioners.

- a. Before any text or map amendment can be adopted, a duly advertised public hearing shall be held by the Planning Commission and the Board of County Commissioners. Such hearings may be held jointly or separately by the respective Commissions at the discretion of the Board of County Commissioners.
- b. The public hearing notice shall contain a summary of the proposed text or map amendment and the date, time and place of the public hearing and shall comply with the requirements of Maryland Annotated Code, Land Use Article, Section 4-203, as amended from time to time.
- c. The Planning Commission will make a recommendation on the text or map amendment. The Planning Commission's recommendation, together with any other reports and recommendations received, will be forwarded to the Board of County Commissioners. Upon receipt of the Planning Commission recommendation, the Board of County Commissioners will approve, approve with conditions or amendments, or deny an application for a text or map amendment.

2. Map Amendments

- a. At least 14 days prior to the scheduled public hearing, Department of Planning & Zoning staff shall erect a sign on the land proposed to be rezoned. Such sign shall be erected within 15 feet of the boundary line of the property that abuts the most traveled County, State, or private road. If no such road abuts the property, then the sign shall be posted facing in such a manner as may be most readily seen by the public.
- b. The Zoning Officer shall mail copies of the public hearing notice by U.S. Mail, First Class Postage Prepaid, to all parties shown by the record of said proceedings on file at the Department of Planning & Zoning, and to all affected property owners, not less than 20 days before the date of the hearing. The applicant shall be responsible for submitting an accurate list of the names and addresses of the affected property owners.

c. The Board of County Commissioners decision on a map amendment shall be made based on the following standards:

i. The Board of County Commissioners may grant a map amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the existing zoning district classification, and that the proposed change in zoning district classification would be more desirable in terms of the objectives of the Comprehensive Plan.

ii. Prior to a decision on any proposed map amendment, the Board of County Commissioners shall make findings of fact, based on the evidence presented, including the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, the recommendation of the Planning Commission, and consistency with the Comprehensive Plan.

iii. The application may be denied if the proposed amendment and possible resulting development would not be compatible with neighboring land uses.

d. The Board of County Commissioners, upon the approval of any map amendment by application, may impose such additional restrictions, conditions or limitations as it deems appropriate to preserve, improve or protect the general character and design of the land and improvements being rezoned, or of the surrounding or adjacent land and improvements. Conditions imposed shall not prohibit any use expressly permitted in the Zoning District to which the land is rezoned.

E. Critical Area Text and Map Amendments

In addition to the text and map amendment procedures of this Ordinance, the text and map amendment requirements of Section 22-1.J of this Ordinance also apply to the Critical Area District.

F. MC District Map Amendments

In considering applications for any the mapping of the MC District, the applicant shall also prove the following:

1. That the activities will not significantly alter existing water circulation patterns or salinity regimes.
2. That the water body upon which these activities are proposed has adequate flushing characteristics in the area.
3. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized.
4. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.
5. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.
6. That dredging will be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally.
7. That dredged spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:
 1. Backfill for permitted shore erosion protection measures.
 2. Use in approved vegetated shore erosion projects.
 3. Placement on previously approved channel maintenance spoil disposal areas.
 4. Beach nourishment.
8. That interference with the natural transport of sand will be minimized.

G. RC District Map Amendments

Any map amendments which result in an expansion of the RC District shall not be permitted.

H. Comprehensive Rezoning

1. For comprehensive rezonings, the Planning Commission and the Board of County Commissioners shall hold a duly advertised public hearing. The provisions of the Land Use Article of the Annotated Code of Maryland, as amended from time to time, concerning public hearing and official notice apply to comprehensive rezonings.
2. Comprehensive rezonings are not subject to the “change or mistake rule” of the Land Use Article of the Annotated Code of Maryland if they are consistent with the Comprehensive Plan.
3. The public hearing notice shall contain a brief description sufficient to identify the properties involved, the current and proposed Zoning District classifications, and the date, time and place of the public hearing.
4. Posting of property and notification of neighboring property owners shall not be required.

30-12 ZONING INTERPRETATIONS

A. Initiation

An owner of property in the County, or the County, may request that the Zoning Officer render an interpretation of the provisions of this Ordinance.

B. Procedure

An application for a zoning interpretation shall be filed with the Department of Planning & Zoning. The Zoning Officer, upon receipt of a complete application, will review the request for an interpretation and after consultation with the County Attorney, render a written interpretation.

30-13 ZONING VERIFICATIONS

The zoning verification process includes both the zoning certification and zoning determination process.

A. Purpose

The purpose of a zoning verification is to provide written determination of compliance with this Ordinance. The Zoning Officer will certify that an existing or proposed use of a lot or parcel, or any existing or proposed structure on a lot or parcel complies with this Ordinance.

B. Authority

Upon the request and application of an applicant, the Zoning Officer will issue a zoning verification.

C. Procedure

Upon submittal of a complete application and payment of fees, the Zoning Officer shall have 30 days to review the request and prepare a written verification of compliance, unless a longer time period of review is agreed to by the applicant and the Zoning Officer.

D. Validity

The validity of the zoning verification runs with the Ordinance in effect at the time of issuance of the verification. Any subsequent amendment to the specific provision(s) that is the subject of the verification application and any subsequent amendment to the related provisions associated with interpreting compliance for the verification invalidates the verification.

30-14 PUBLIC HEARINGS

A. Pre-Hearing Examination

Once required notice is given, any person may examine the application and material submitted in support of or in opposition to the application during normal business hours, subject to the exceptions set forth in the Maryland Public Information Act. Upon submittal of a public information request, any person is entitled to copies of the application and related documents. A fee may be charged for such copies.

B. Conduct of the Public Hearing

The public hearing shall be conducted in accordance with all applicable requirements of Land Use Article of the Annotated Code of Maryland, as amended from time to time, and the rules of procedure of the body conducting the hearing.

C. Continuances and Deferrals

The body conducting the hearing may continue or defer a public hearing in accordance with the rules of procedure of the body conducting the hearing.

30-15 REVOCATION OF PERMITS

A. The Zoning Officer has the authority to rescind approval of any permit if any conditions of approval are not met or if incorrect information was given by the applicant during the application process. The Department of Planning & Zoning may initiate action to have the permit rescinded according to the procedures listed below, in addition to other enforcement procedures authorized by this Ordinance.

1. If a violation is not corrected within the time specified by a violation notice issued by the Department of Planning & Zoning, the Zoning Officer may issue a written notice rescinding the permit.
2. If the permit is not rescinded, the Zoning Officer may amend, add to, or delete any of the conditions of the original approval. The Zoning Officer may also reaffirm the permit subject to a schedule for correction of specified violations, with provisions for automatic revocation if the property is not brought into compliance within the period specified by the schedule.