

SALISBURY HOUSING BOARD OF ADJUSTMENTS AND APPEALS
125 N. Division Street
Salisbury, Maryland 21803
RULES OF PROCEDURE
April 7, 2008

Section I: Authority.

These rules and regulations are promulgated under the authority vested in the Housing Board of Adjustments and Appeals ("Board") by Chapter 15.24 of the Salisbury City Code (hereinafter referred to as the "Code").

Section II. Organization.

A. Name. The name of this body is "Salisbury Housing Board of Adjustments and Appeals."

B. Authority. The organization, membership, duties, responsibilities, powers and procedures of the Board are as prescribed in the Code. It is the intent of these Rules and Regulations to prescribe the means for the implementation of the Code.

C. Officers.

1. The Board shall have as officers a Chairman, Vice-Chairman and Secretary.

2. The Chairman and Vice Chairman are members of the Board, elected as provided herein. The Director of the City of Salisbury Department of Neighborhood Services and Code Compliance or his designated representative shall serve as Secretary to the Board.

3. The Chairman shall sit as the presiding officer of the Board. He shall direct the Secretary in the preparation of the Agenda and rule on any requests for postponement submitted prior to the hearing date. He shall call meetings to order; rule on all points of order; administer oaths; bring to vote all matters required of Board action; and together with the Secretary, authenticate the record of meetings, actions, orders, certificates and other proceedings of the Board. He shall be counted in reaching a quorum.

4. The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence.

5. The Secretary shall issue all required notices of meetings, including notices to members. At the direction of the Chairman, the Secretary shall prepare the Agenda; distribute required documentation to Board members; record the proceedings and prepare minutes of the meetings; maintain official records and files of the Board and conduct the general correspondence of the Board. The Secretary will receive and process all applications for appeal filed with the Board.

D. Election of Officers.

1. The Board shall elect a Chairman and Vice-Chairman whose terms shall be for two years or until their successors have been elected.

2. The Secretary of the Board shall preside over the nomination and election of the Chairman. Thereafter, the Chairman shall preside over the meeting and conduct and supervise nomination and election of a Vice-Chairman.

3. Should the office of Chairman become vacant for any reason, the Vice-Chairman shall become the Chairman for the duration of the unexpired term and the Board shall elect a new Vice-Chairman to fill the unexpired term.

E. Compensation, Expenses and Assistance.

1. Board members shall serve without compensation, but may, upon Mayor and City Council approval, be reimbursed for actual expenses incurred in the performance of their duties.

2. As Secretary to the Board, the Director of the City Department of Neighborhood Services and Code Compliance shall provide the Board with secretarial and clerical assistance, office space, files, supplies and equipment required for its functioning. Furthermore, the Board's files shall be maintained and stored in the Office of the City Department of Neighborhood Services and Code Compliance.

Section III: Meetings.

A. Business Meetings.

1. Business Meetings shall be held on an as-needed basis.
2. Any business properly brought before the Board may be considered at a business meeting.
3. Business meetings will be held in the Government Office Building, North Division Street and Route 50, Salisbury, Maryland. If the Board designates another location, adequate notice of the new location shall be given.
4. The secretary shall notify Board members of each meeting at least five (5) days in advance thereof.
5. Meetings of the Board shall be convened by the Chairman, or in his absence, the Vice Chairman. In the event both are absent, the regular member in attendance with the greatest seniority of service shall act as Chairman.

B. All meetings of the Board shall be advertised in accordance with the City adopted open meetings policy by posting notice of the meeting on the Bulletin Board in the lobby of the City Government Office Building.

C. All meetings are open to the public, except that the Board may hold closed sessions in accordance with the Maryland Open Meetings Act.

D. Except as otherwise set out herein, Robert's Rules of Order shall apply to all meetings of the Board.

E. Continuance of Meetings.

1. The Board, in its discretion, for any reasonable purpose stated, may decide to continue a public hearing to any other reasonable time, place or location it deems advisable.

2. Continuance of hearings and extension requests may be advertised at the discretion of the Board, but in compliance with open meetings law.

3. The appellant, as well as all other interested parties who registered at the initial hearing, shall be notified in person or in writing of the date, time and place of the continuance meeting.

4. The order of procedure for a Continuance meeting shall be the same as that normally conducted during a Public Hearing except that testimony taken at the initial hearing need not be repeated but may be used for reference. New testimony may be presented at a Continuance meeting at the discretion of the Board.

5. The format of any Continuance meeting shall be:

a. Reopen meeting - Chairman.

b. Presentation of information requested by the Board.

c. Appellant's response or submission of additional or new evidence.

d. Opponent's response or submission of additional or new evidence.

e. Board review and discussion.

f. Board action and discussion.

6. In order to be eligible to vote on a matter, a member will have attended all meetings or have become familiar with the record of any meetings from which the member was absent at which the matter was discussed.

F. Quorum and Voting.

1. A quorum shall consist of no less than three (3) members.

2. Questions put to a vote are decided by a majority of the members

present and voting; however, no decision shall be made in the absence of a quorum.

3. A tie vote by the Board shall be interpreted as a defeat of the motion upon which the vote was taken.

4. Members shall comply with the City ethics law.

5. Members' votes and abstentions shall be recorded on each motion.

G. Attendance. It shall be the duty of each member to attend all meetings. Should any member be absent from one-half or more of all meetings in a six-month period, the Board may recommend to the Mayor that the Member's resignation be requested.

Section IV: Applications for Appeal

A. Any person affected by a decision, notice or order of the Department of Neighborhood Services and Code Compliance shall have the right to appeal to the Board by filing a written Application for appeal within 21 days after the decision, notice or order was served.

B. An application shall be signed by the appellant or his designated representative.

C. An application may be summarily dismissed by the Board if it is not filed in a timely manner.

D. An application shall clearly state the issues the appellant intends to raise in his appeal. Only those issues specifically raised in the application will be considered by the Board.

E. Once an application has been received in the office of the Secretary, it becomes public information.

F. An appellant or his representative may submit a letter of withdrawal or postponement to the Secretary at any time before the Board has acted on said Application. The Chairman shall rule on requests for postponement.

Section V: Action of the Secretary and the Department of Neighborhood Services and Code Compliance.

A. Within 45 days of receipt of a completed Application, the Secretary shall notify the Chairman of the appeal by sending a copy of the Application to him.

B. After conferring with the Chairman, the Secretary shall notify the applicant in writing of the date, time and place of the meeting wherein his Application will be reviewed. The Secretary shall also notify any persons who have become interested parties by filing documents or other exhibits with the Secretary.

C. At least five days prior to a business meeting, the Secretary shall forward a copy of all documents and other exhibits received with regard to the Application to the members of the Board.

Section VI: Order of Business.

A. The order of business shall be in accord with the agenda prepared by the Secretary in consultation with the Chairman. Members of the Board who wish to add to the agenda shall notify the Chairman not less than (5) days before the scheduled meeting.

B. At the discretion of the Chairman, the Board may act on the minutes of the previous meeting or meetings.

C. The Chairman, or his assigns, may call each case to be heard by the Board.

D. The Chairman shall administer oaths.

E. The Chairman shall, at his discretions, take such steps as he considers necessary to ensure the proper and orderly conduct of meetings.

F. A person wishing to address the Board shall give the Recording Secretary his name and address and, if sworn or affirmed, so state for the record.

G. Order of Hearing upon an Appeal.

1. A representative of the Salisbury Department of Neighborhood Services and Code Compliance shall present a staff report.
2. The appellant or his designated representative shall present his case, including such evidence and argument as is necessary to support his position on the matter.
3. The Board's consultants, if any, shall present recommendations.
4. The parties, including the representative of the Department of Neighborhood Services and Code Compliance, may ask questions of each other at the direction of the Chairman.
5. Members of the public shall present their comments.
6. Board members may ask questions both during and after testimony, as appropriate.
7. Prior to voting on a matter, Board members shall inspect the building or premises that is the subject of the appeal. Notice shall be given to the parties before the inspection is made. The parties may be present during the inspection.
8. Each party shall have the right to rebut or explain the conditions observed during the inspection, and the Board may ask questions of the parties and have further discussion regarding the matter.
9. At the conclusion of all testimony and questioning, the Board may dispose of the appeal by motion to sustain or reverse, or may carry the application forward for further hearing or for further deliberations by the Board.

H. Each party has the following rights at a hearing on an Application:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;

3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and

4. To represent himself or to be represented by anyone of his choice who is lawfully permitted to so do.

I. In order to afford all persons an opportunity to be heard on an appeal or other agenda item, the Chairman may impose reasonable time limits upon comments.

J. Voting and the making of motions.

1. Any member of the Board, except the Chairman, may make or second a motion for the Board to take action regarding an agenda item, subject to the City Ethics Ordinance.

2. Any member of the Board may vote regarding any agenda item, subject to the City Ethics Ordinance.

3. In the absence of the Board Chairman, the Vice-Chairman shall be subject to the same limitations upon voting and the making of motions as the Board Chairman.

4. The secretary shall record the name of the Board member making each motion and the name of the member who seconds the motion.

5. Discussions and testimony shall be closed on any item by the Chairman with the concurrence of a majority of the Board members. At the conclusion of the hearing, the Board Chairman shall call for a vote.

6. On the call to vote, each Board member shall clearly state his aye, nay or abstain vote, or by show of hand when requested by the Board Chairman. The secretary shall record the vote for each agenda item.

Section VII: Decisions of the Board.

A. Upon a review of all relevant evidence provided to it, the Board may take one of the following actions:

1. Sustain the action of the Department of Neighborhood Services and Code Compliance.

2. Reverse the action of the Department of Neighborhood Services and Code Compliance.

3. Vary the application of the Salisbury Municipal Code when, in the Board's opinion, the enforcement thereof would cause undue hardship and would be contrary to the spirit and purpose of the Code or public interest or when, in its opinion, the interpretation of the Department should be modified or reversed. A decision of the board to vary the application of any provision of the Code or to modify an order of the building official shall specify in what manner such variation or modification is made.

C. Upon hearing all of the evidence and reviewing exhibits, the Chairman shall call for a motion on the matter. The Secretary shall record the vote of each member, and the motion shall be carried by the affirmative votes of not less than the majority of those present and eligible to vote.

Each motion shall contain a statement of the findings of fact and grounds forming the basis of the Board's action or decision, and the full text of said motion and record of members' votes shall be incorporated in the minutes of the Board.

D. The Board shall render a decision on each case within a reasonable length of time.

E. The official date of the Board's decision shall be that date shown on the Notice of Decision sent to the applicant and/or his representative.

Section IX: Appeals.

Any applicant, interested person, firm or corporation aggrieved by a decision of the Board shall have the right to appeal that decision to the Circuit Court for Wicomico County. Any appeal shall be noted in the Circuit Court within 30 days of the Board's decision.

Section XI: Conduct of Board Members.

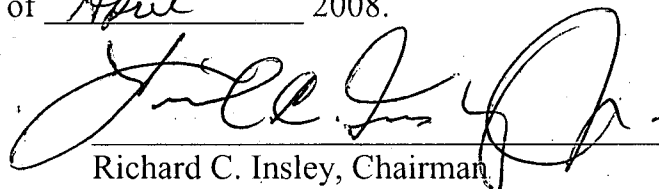
A. Speaking for the Board. A member will not appear to speak for the Board except as authorized by the Board. In any public or private statement concerning Board affairs, members will carefully indicate whether they are speaking for the Board or for themselves.

B. Conflicts of Interest. The conduct of the Board shall be governed by Chapter 2.04 of the Salisbury Municipal Code.

Section XII: Amendments.

These Rules and Regulations, and any part thereof, may be amended by the Board at any business meeting, for which a notice has been made informing the public of the nature, scope and purpose of the proposed amendment or amendments.

THE FOREGOING HAVING BEEN CONSIDERED BY THE HOUSING BOARD OF ADJUSTMENTS AND APPEALS OF THE CITY OF SALISBURY, it was approved this 7th day of April 2008.


Richard C. Insley, Chairman