

Introduced 3/5/18
Public hearing 3/19/18
Council action 4/2/18
Executive action 4/5/18
Effective date 6/5/18

County Council of Howard County, Maryland

2018 Legislative Session

Legislative day # 3

BILL NO. 16 – 2018

Introduced by: Jennifer Terrasa and Mary Kay Sigaty
Co-sponsored by: Calvin Ball, Greg Fox and Jon Weinstein

AN ACT amending the Howard County Code to modify the process for piecemeal map amendments and development plan approvals by the Zoning Board; and generally relating to Zoning Board hearings.

Introduced and read first time March 5, 2018. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 19, 2018.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on April 2, 2018 and Passed , Passed with amendments , Failed .

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5th day of April, 2018 at 9:00 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive Apr. 5, 2018

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is hereby amended as follows:

3
4 *By Amending:*

5
6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*

7 *Subtitle 2. "Zoning"*

8 *Section 16.204. "Piecemeal map amendments and development plan approvals."*

9
10
11 **HOWARD COUNTY CODE**

12
13 **Subtitle 2. Zoning**

14
15 **Section. 16.204. - Piecemeal map amendments and development plan approvals.**

16
17 (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it by this
18 subtitle to make decisions on piecemeal map amendments and development plans in
19 pursuance of a petition filed in accordance with section 16.205 of this subtitle and shall
20 establish procedures for doing so.

21 (b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a
22 pending application, other than piecemeal map amendment cases based on the
23 change/mistake rule as established by Maryland Case Law, to the ~~[[mediation and Conflict~~
24 ~~Resolution Center at Howard Community College]]~~ MEDIATION AND CONFLICT
25 RESOLUTION CENTER, INC. OF HOWARD COUNTY or a conflict resolution or mediation
26 service which has been deemed acceptable by the Board. The purpose of such referral shall
27 be to resolve conflicts between these parties, but the results thereof shall not bind the Board
28 to any result. Any resolution that is agreed upon by both parties shall be subject to findings
29 of the Board required by law. Petition approval may not be granted solely on the basis of
30 mediation resolution.

31 A referral may be made either before or after a public hearing on a pending petition decision,
32 but only after an application is deemed complete. Mediation shall not occur after the Zoning
33 Board votes on a petition. The cost of the mediation service shall be incurred by the petitioner.

1 If no agreement is reached between the parties within 45 days, or at anytime the mediator deems
2 any further meetings futile, the Board shall continue with its proceedings or deliberations on
3 the matter. If both parties agree, mediation may be extended past 45 days to a period of time as
4 agreed to by the parties.

5 Nothing in this section shall preclude the parties from meeting on their own at any time, with
6 or without a mediator, in an attempt to resolve their differences. It is the policy of the County
7 to encourage applicants and neighbors to have early discussions on proposed projects so that
8 differences may be resolved prior to the submission of an application.

9 (c) *Public Hearing Required.* The Zoning Board shall hold a public hearing on these piecemeal
10 map amendments and development plan petitions at which parties in interest and citizens
11 shall have an opportunity to be heard. The Zoning Board shall be prohibited from holding
12 meetings which include an opportunity for public testimony on any day on which Rosh
13 Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning Board shall
14 not take final action on piecemeal map amendments or development plan petitions until
15 after the public hearing.

16 (d) *Advertising.* At least 30 days prior to the initial public hearing on the piecemeal map
17 amendment or development plan petitions, the petitioner, at its own expense, shall advertise
18 the date, time, place and subject matter of the petition in at least two newspapers of general
19 circulation in Howard County.

20 (e) *Posting and Mail Notice:*

21 (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment
22 or development plan petitions, the petitioner shall:

23 (i) Post the property which is the subject of the hearing with the date, time, place and
24 subject matter of the hearing. The sign shall include the address of Department of
25 Planning and Zoning's website. The poster shall be double-sided and at least 30
26 inches by 36 inches in size. The poster shall include a three digit alphanumeric
27 code, which would be used to identify the case. The alphanumeric code shall be
28 posted by the Department of Planning and Zoning in at least five-inch lettering in
29 the top left corner of the poster. The Department of Planning and Zoning shall
30 determine the number of posters required and their location and the petitioner
31 shall bear the expense of posting. The Department of Planning and Zoning shall

1 supply the posters. The petitioner shall properly erect and maintain the posters;
2 and

3 (ii) Send a certified letter to all persons whose property is adjoining to the property
4 which is the subject of the petition, according to the most recent State taxation
5 and assessment records, notifying those persons of the date, time, place and
6 subject matter of the hearing in accordance with subsection 16.203(c)(7) and of
7 this subtitle.

8 (2) Noncompliance with the mailing requirements of paragraph (1) of this subsection does
9 not constitute a basis for appeal or the setting aside of piecemeal zoning or
10 development plan decisions.

11 (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or development
12 plan approvals shall be submitted to the Planning Board. At least 30 days prior to a
13 Planning Board meeting on any piecemeal map amendment or development plan, the
14 petitioner shall send notice of such meeting to the relevant subscribers on the list
15 maintained by the Department of Planning and Zoning in accordance with subsection
16 16.145(b)(3). The Zoning Board shall consider the report of the Planning Board on such
17 petitions before the Zoning Board takes final action on them.

18 (g) *Department of Planning and Zoning's Findings and Recommendations.* The Department
19 of Planning and Zoning shall transmit its findings and recommendations concerning a
20 petition for piecemeal map amendments or development plans IN A TECHNICAL STAFF
21 REPORT to the Planning Board at least two weeks prior to the public meeting on a petition.

22 (h) *Questioning Departmental Findings.* At any time any individual may submit a question to
23 the staff of the Department of Planning and Zoning or related agencies concerning the
24 findings and recommendations of the Department or related agencies. If a written response
25 is requested, the question should be submitted in writing to the Department or agency. ~~THE~~
26 IF THE WRITTEN REQUEST IS SUBMITTED AT LEAST 30 DAYS PRIOR TO THE ZONING BOARD
27 HEARING, THE DEPARTMENT OR AGENCY SHALL RESPOND TO SUCH REQUESTS IN WRITING
28 PRIOR TO THE ZONING BOARD HEARING AND SEND A COPY OF THE RESPONSE TO THE ZONING
29 BOARD AT LEAST TWO WEEKS PRIOR TO THE ZONING BOARD HEARING. A RESPONSE FROM
30 A RELATED AGENCY TO A QUESTION CONCERNING ITS FINDINGS AND RECOMMENDATIONS

1 MAY BE CONSIDERED BY THE ZONING BOARD ONLY IF THE RESPONSE IS IN WRITING, UNLESS
2 A REPRESENTATIVE OF THE AGENCY IS PRESENT AT THE HEARING TO ANSWER QUESTIONS.

3
4 (i) *PRESENTATION OF DEPARTMENTAL FINDINGS AND RECOMMENDATIONS.* AT LEAST 30 DAYS
5 PRIOR TO A ZONING BOARD HEARING, THE BOARD ADMINISTRATOR SHALL SEND A WRITTEN
6 NOTICE TO THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING AS TO THE DATE,
7 TIME, AND PLACE OF THE HEARING. THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND
8 ZONING, OR THE DIRECTOR'S DESIGNEE, SHALL ATTEND A ZONING BOARD PUBLIC HEARING
9 CONCERNING A PETITION FOR PIECEMEAL MAP AMENDMENT OR DEVELOPMENT PLAN ~~TO~~ AND,
10 UNDER OATH AND SUBJECT TO CROSS-EXAMINATION, SUMMARIZE THE DEPARTMENT'S
11 FINDINGS, EXPLAIN THE DEVELOPMENT PROCESS, AND ANSWER ANY RELATED QUESTIONS.

12
13 *[[i) Referring Questions to Board.* During a public hearing concerning a petition for piecemeal
14 map amendments or development plans, any party may direct a question to the Zoning
15 Board and the Board shall determine if staff shall respond and the form of such response.

16 A response by the Department of Planning and Zoning and related agencies to a question
17 concerning its findings and recommendations may be considered by the Zoning Board only
18 if the response is in writing.]]

19 (j) *Findings.* Before the Zoning Board makes a decision on any piecemeal map amendment or
20 development plan petition it shall make those findings of fact and conclusions of law
21 required by law.

22 (k) *Documentation.*

23 (1) A petition for a piecemeal amendment of the zoning map may include documentation
24 describing the proposed development and use of the property under petition. The
25 zoning regulations and Zoning Board's rules of procedure shall govern the nature of
26 the documentation and its review.

27 (2) A piecemeal map amendment shall be based on findings required by law. A piecemeal
28 map amendment petition may not be granted solely on the basis of documentation
29 relating to proposed development and use of the property.

1 (3) If the petition for a piecemeal map amendment includes documentation describing the
2 proposed development and use of the property under petition and the petition is
3 granted:

4 (i) The property may be developed and used only in accordance with the
5 documentation, notwithstanding any provision requiring uniformity of zoning
6 requirements; and

7 (ii) Unless the comprehensive zoning plan changes the zoning district of the property,
8 subsequent adoption of a comprehensive zoning plan shall not affect the
9 requirement that the property be used in accordance with the documentation.

10

11

12 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act*
13 *shall become effective 61 days after its enactment.*

14

15

16

17

18

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on April 5, 2018.

Jessica Feldmark
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill 16-2018

BY: Jennifer Terrasa

Legislative Day No: 4

Date: 4/2/18

Amendment No. 1

1 (This amendment proposes to:

- 2 • clarify that the Department of Planning and Zoning (DPZ) is to transmit its findings
3 and recommendations in the form of a Technical Staff Report;
4 • clarify the timeliness of the written questions to DPZ and DPZ's response to the
5 questions; and
6 • clarify that DPZ staff making its presentation of findings and recommendations is
7 subject to cross-examination.)
8
9

10 On page 3, in line 20, after "plans", insert "IN A TECHNICAL STAFF REPORT".
11

12 On page 3, in line 25, after the period, strike "THE" and substitute, "IF THE WRITTEN
13 REQUEST IS SUBMITTED AT LEAST 30 DAYS PRIOR TO THE ZONING BOARD HEARING, THE".
14

15 On page 3, in lines 26 and 27, strike "PRIOR TO THE ZONING BOARD HEARING".
16

17 On page 3, in line 27, after the second "BOARD", insert "AT LEAST TWO WEEKS PRIOR TO
18 THE ZONING BOARD HEARING".
19

20 On page 4, in line 7, strike "TO", and immediately after "PLAN", insert "AND, UNDER
21 OATH AND SUBJECT TO CROSS-EXAMINATION,".
22
23
24

ADOPTED

4/2/18

FAILED

SIGNATURE

Jessica Feldman