

Introduced October 3, 2011
Public Hearing October 17, 2011
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 11

Bill No. 53 -2011

Introduced by: The Chairperson at the request of the County Executive

AN ACT requiring that appeals from a decision of the Hearing Examiner shall be heard on the record; and generally relating to appeals to the Board of Appeals.

Introduced and read first time October 3, 2011. Ordered posted and hearing scheduled.

By order Stephen M LeGendre
Stephen LeGendre, 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 October 17, 2011.

Tabled November 7, 2011
Expired December 8, 2011

By order Stephen M LeGendre
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2011 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2011 at ___ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2011

Ken Ulman, 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**
2 **Howard County Code is amended as follows:**

3

4 *By amending:*

5 *Title 16 – Planning, Zoning and Subdivisions and Land Development Regulations*
6 *Section 16.302 “Jurisdiction of the Hearing Examiner”*

7

8 *By amending:*

9 *Title 16 – Planning, Zoning and Subdivisions and Land Development Regulations*
10 *Section 16.304 “Appeals to Board of Appeals”*

11

12 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

13 **Subtitle 3. Board of Appeals.**

14

15 **Section 16.302. Jurisdiction of Hearing Examiner.**

16 (a) Except as provided in subsections (b) and (c), wherever in this Code or the zoning
17 regulations a matter is authorized to be heard and decided by the Board of Appeals, the
18 matter will first be heard and decided by a Hearing Examiner.

19 (b) Wherever in this Code or the zoning regulations a person is authorized to appeal a
20 decision made by an administrative agency after an opportunity for a contested case
21 hearing, the appeal will be heard and decided by the Board ON THE RECORD.

22 (c) The Board will hear and decide a case if the Hearing Examiner position is vacant or
23 the Board determines that the Hearing Examiner is unable to hear the case because of a
24 conflict of interest or other disqualification.

25 (d) If the Board hears a petition for a conditional use, nonresidential variance, or
26 extension, enlargement or alteration of a nonconforming use under the conditions of
27 subsection (c), then the Board will not make a final decision on the case until it has
28 considered the report of the Planning Board.

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1 **Section 16.304. Appeal to Board of Appeals.**

2 (a) A person aggrieved by a decision of a Hearing Examiner may, within 30 days of the
3 issuance of the decision, appeal the decision to the Board of Appeals. [[Unless the appeal
4 is of a citation issued under subtitle 16 of this title, the]] THE Board will hear the appeal
5 OF THE HEARING EXAMINER'S DECISION OR OF A CITATION ISSUED UNDER SUBTITLE 16 OF
6 THIS TITLE [[de novo]] ON THE RECORD in accordance with section [[2.209 or subsection
7 2.210(a)]] 2.210(B) of [[the]]THIS Code, as amended, as applicable. [[The Board will hear
8 the appeal of a citation issued under subtitle 16 of this title on the record in accordance
9 with section 2.210(b) of this Code.]]

10 (b) On filing of the appeal, the Hearing Examiner will promptly transmit the entire
11 record or a certified copy of the record to the Board of Appeals and notify the parties of
12 this action.

13 (c) The person filing the appeal will bear the expense of providing notice of and
14 advertising the hearing.

15

16 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
17 *Maryland, that this Act shall become effective 61 days after its enactment.*