

**CITY OF BALTIMORE
COUNCIL BILL 06-0475
(First Reader)**

Introduced by: Councilmembers Kraft, D'Adamo, Curran, Clarke, Reisinger, Conaway,
Mitchell

Introduced and read first time: July 10, 2006

Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: Board of Municipal and Zoning Appeals, City
Solicitor, Department of Housing and Community Development

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Zoning Appeals – Notices**

3 FOR the purpose of requiring certain public notices to be given of any hearing on a positive
4 appeal before the Board of Municipal and Zoning Appeals; defining certain terms;
5 conforming certain language; and generally relating to required notice and hearing of
6 conditional uses, variances, appeals from the Zoning Administrator, and certain other matters
7 before the Board..

8 BY repealing and reordaining, with amendments

9 Article - Zoning

10 Section(s) 2-114, 14-204, 15-217

11 Baltimore City Revised Code

12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
14 Laws of Baltimore City read as follows:

15 **Baltimore City Revised Code**

16 **Article – Zoning**

17 **Title 2. Administration; Authorizations**

18 **§ 2-114. Public hearings.**

19 (a) [*Scheduling, notices, decision*] *IN GENERAL.*

20 The Board must:

21 (1) fix a reasonable time and place for the public hearing of an application, appeal, or
22 other matter;

23 (2) give notice of the hearing to the parties in interest;

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (3) give public notice of the hearing; and

2 (4) decide the matter within a reasonable time after the hearing.

3 (B) *NOTICE OF "POSITIVE APPEALS"*.

4 (1) IN THIS SUBSECTION, "POSITIVE APPEAL" MEANS ANY:

5 (I) APPLICATION TO THE BOARD FOR A CONDITIONAL USE;

6 (II) APPLICATION TO THE BOARD FOR A VARIANCE;

7 (III) APPEAL TO THE BOARD ON AN APPLICATION THAT HAS BEEN DISAPPROVED BY
8 THE ZONING ADMINISTRATOR; AND

9 (IV) ANY OTHER APPLICATION OR MATTER THAT HAS BEEN REFERRED TO THE
10 BOARD BY THE ZONING ADMINISTRATOR.

11 (2) FOR A POSITIVE APPEAL, THE APPLICANT MUST GIVE AT LEAST 15 DAYS' PUBLIC
12 NOTICE OF THE TIME, PLACE, AND SUBJECT OF THE HEARING, AS FOLLOWS:

13 (I) BY POSTING IN A CONSPICUOUS PLACE ON THE PROPERTY IN QUESTION; AND

14 (II) BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO EACH
15 PERSON WHO APPEARS ON THE TAX RECORDS OF THE CITY AS AN OWNER OF
16 PROPERTY WITHIN 200' OF THE PROPERTY IN QUESTION.

17 (C) [(b)] *Oaths and witnesses.*

18 The chair or acting chair of the Board may administer oaths and compel the attendance of
19 witnesses.

20 (D) [(c)] *Attendance by parties.*

21 At the hearing, any party may:

22 (1) appear in person, by agent, or attorney; and

23 (2) testify as to any material facts.

24 (E) [(d)] *Hearings to be public.*

25 All hearings of the Board must be open to the public.

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Title 14. Conditional Uses

§ 14-204. NOTICE AND HEARING; [Required] findings.

(A) NOTICE AND HEARING.

THE BOARD MAY NOT APPROVE A CONDITIONAL USE UNTIL AFTER PUBLIC NOTICE IS GIVEN AND A HEARING HELD, AS PROVIDED IN § 2-114 OF THIS ARTICLE.

(B) REQUIRED FINDINGS.

The Board may not approve a conditional use unless, [after public notice and hearing and] on consideration of the standards prescribed in this title, it finds that:

- (1) the establishment, location, construction, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, security, general welfare, or morals;
- (2) the use is not in any way precluded by any other law, including an applicable Urban Renewal Plan;
- (3) the authorization is not otherwise in any way contrary to the public interest; and
- (4) the authorization is in harmony with the purpose and intent of this article.

Title 15. Variances

§ 15-217. In general.

(A) NOTICE AND HEARING.

A VARIANCE MAY NOT BE GRANTED UNTIL AFTER PUBLIC NOTICE IS GIVEN AND A HEARING HELD, AS PROVIDED IN § 2-114 {"PUBLIC HEARINGS [BY BOARD]"} OR TITLE 16 {"LEGISLATIVE AUTHORIZATIONS AND AMENDMENTS"} OF THIS ARTICLE, AS THE CASE MAY BE.

(B) REQUIRED FINDINGS.

A variance may not be granted unless[, after public notice and hearing,] the Board or the Mayor and City Council, as the case may be, makes the following findings.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.