

PHED COMMITTEE #1  
April 11, 2019

**Worksession**

**MEMORANDUM**

April 9, 2019

TO: Planning, Housing and Economic Development  
FROM: <sup>JCA</sup> Jean C Arthur, Legislative Analyst  
SUBJECT: **Worksession: FY20 Operating Budget: Board of Appeals**  
PURPOSE: Make recommendations on the FY20 Operating Budget for the Board of Appeals

*Those expected to attend this worksession include:*  
Barbara Jay, Executive Director, Board of Appeals  
Phil Weeda, Office of Management and Budget (OMB)

Relevant pages from the FY20 Recommended Operating Budget are attached on ©1-4.

**Summary**

The Executive is recommending a decrease in the FY20 Operating Budget for the Board of Appeals.

**Council Staff Recommendation:** Approve as submitted by the Executive.

**BACKGROUND**

The Board of Appeals is a quasi-judicial body of five members appointed by the Montgomery County Council for four-year terms, which are staggered. Not more than three of the five members may be from the same political party (Montgomery County Code 1984, Article V, Sections 2-108 through 2-116).

The Board has authority to hear and decide certain land use cases, including conditional uses in a particular zone, variances from the development standards of the Zoning Ordinance, and Administrative Appeals from actions of the County Government (as specified by the County Code). The Board has Countywide jurisdiction, except for the municipal corporations of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg, and Washington Grove.

Members of the Board of Appeals receive a stipend.

## OVERVIEW

For FY20, the County Executive recommends a total of \$563,032 a decrease of \$16,198 or 2.8 percent from the FY19 Approved Budget of \$579,230. The recommended budget funds three full-time positions and a chargeback of .5 FTE from the Office of the County Attorney.

	<i>FY18 Actual</i>	<i>FY19 Approved</i>	<i>FY20 Recommended</i>	<i>% Change FY19 – FY20</i>
<b><i>Expenditures by fund</i></b>				
General Fund	\$531,133	\$579,230	\$563,032	-2.8%
<b><i>Expenditures by type</i></b>				
Personnel Cost	\$499,663	\$514,003	\$526,793	2.5%
Operating Expenses	\$31,470	\$65,227	\$36,239	-44.4%
<b><i>Total Expenditures</i></b>	<b>\$531,133</b>	<b>\$579,230</b>	<b>\$563,032</b>	<b>-2.8%</b>
<b><i>Positions</i></b>				
Full-Time	3	3	3	-
<b><i>FTEs</i></b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>-</b>

### FY20 Expenditure Notes

**Board member stipends.** The budget includes funding for a small increase in the stipend for the five board members. Montgomery County Council resolution 9-527A allows for an annual adjustment of the stipend to reflect 50 percent of change in the Washington area consumer price index. The total increase for all five members is \$689.

**Operating Expenses.** The recommended budget takes a significant reduction in operating expenses from the Board of Appeals' budget. A portion of that is elimination of the one-time expense related to office refurbishing; however, the remainder of the cut will have to come from office functions such as mailing and printing services. Board of Appeals staff is committed to living within its approved budget but points out that further cuts to operating expenses will not be manageable.



# Board of Appeals

**RECOMMENDED FY20 BUDGET**  
**\$563,032**

**FULL TIME EQUIVALENTS**  
**3.50**

✦ **BARBARA JAY, EXECUTIVE DIRECTOR**

## MISSION STATEMENT

The mission of the Board of Appeals is to implement the flexibility provided in the Zoning Ordinance as approved by the County Council, and to assist County residents in understanding and participating in the variance, administrative appeal, special exception modification, and conditional use appeal processes.

## BUDGET OVERVIEW

The total recommended FY20 Operating Budget for the Board of Appeals is \$563,032, a decrease of \$16,198 or 2.80 percent from the FY19 Approved Budget of \$579,230. Personnel Costs comprise 93.56 percent of the budget for three full-time position(s) and no part-time position(s), and a total of 3.50 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 6.44 percent of the FY20 budget.

## COUNTY PRIORITY OUTCOMES

While this program area supports all seven of the County Executive's Priority Outcomes, the following is emphasized:

✦ **Effective, Sustainable Government**

## DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below (where applicable). The FY19 estimates reflect funding based on the FY19 Approved Budget. The FY20 and FY21 figures are performance targets based on the FY20 Recommended Budget and funding for comparable service levels in FY21.

Measure	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
<b>Program Measures</b>					
Number of Administrative Appeals filed	5	10	10	10	10
Number of pre-hearing conferences held	6	9	9	9	9
Number of Administrative Appeals heard	3	4	4	4	4
Number of Administrative Appeals decided	5	8	8	8	8
Average days to Administrative Appeals hearing notice <sup>1</sup>	16	15	15	15	15
Average days to Administrative Appeals hearing (minimum of 30 days notice required) <sup>2</sup>	54	61	61	61	61

Measure	Actual FY17	Actual FY18	Estimated FY19	Target FY20	Target FY21
Average days to issue written Administrative Appeals decisions (within 45 days of close of record unless extended) <sup>3</sup>	28	28	28	28	28
Number of Variances filed	27	30	30	30	30
Number of Variances heard	22	38	38	38	38
Number of Variances decided	21	38	38	38	38
Average days to Variance hearing notice	10	16	16	16	16
Average days to Variance hearing (within 60 days of accepting application) <sup>4</sup>	42	50	50	50	50
Average days to issue Variance decision (within 30 days of close of record unless extended) <sup>5</sup>	14	9	9	9	9
Number of requests for Oral Argument in Conditional Use cases <sup>6</sup>	2	1	1	1	1
Number of requests for Oral Argument granted	1	0	0	0	0
Number of Conditional Use cases decided	2	1	1	1	1
Average days to issue Conditional Use decision (must issue within 30 days of voting on the matter unless extended)	16	13	13	13	13
Number of Circuit Court appeals processed	7	1	1	1	1
Number of Worksessions held	22	24	24	24	24
Number of Administrative Actions taken <sup>7</sup>	167	146	146	146	146
Average days to Worksession Resolutions	16	13	13	13	13

<sup>1</sup> County Code requires mailing of written notice a minimum of 30 days before the scheduled hearing date.

<sup>2</sup> County Code requires that the hearing on an administrative appeal be held no fewer than 30 days after issuance of written notice of the hearing.

<sup>3</sup> Board of Appeals Rule 9.1 requires issuance of administrative appeal opinions within 45 days of close of record.

<sup>4</sup> Section 59-7.3.2.C of the Zoning Ordinance requires the Board to schedule a hearing within 60 days after receiving an application.

<sup>5</sup> Board of Appeals Rule 9.1 requires issuance of variance opinions within 30 days of close of record.

<sup>6</sup> The Board has appellate jurisdiction over all conditional use cases in which oral argument is requested.

<sup>7</sup> Matters considered and/or decided at worksessions include, but are not limited to, preliminary motions in Administrative Appeals, requests for major modifications (following the issuance of a report and recommendation by the Office of Zoning and Administrative Hearings) and administrative modifications of existing special exceptions, requests for by-right hearings, requests for oral argument regarding appeals of conditional use decisions, requests for the revocation of special exceptions, requests for the reconsideration of earlier Board decisions, requests for show cause hearings, complaints regarding the operation of special exceptions, inspection reports from the Department of Permitting Services and the Department of Housing and Community Affairs regarding such complaints, and the submission of documents fulfilling various Board-imposed reporting requirements.

## **PROGRAM CONTACTS**

Contact Barbara Jay of the Board of Appeals at 240.777.6604 or Naeem M. Mia of the Office of Management and Budget at 240.777.2786 for more information regarding this department's operating budget.

## **PROGRAM DESCRIPTIONS**

### **☀ Zoning Related Hearings and Administrative Appeals**

The Board of Appeals hears requests for variances as provided in the Zoning Ordinance. Development standards for each zone are set by the Zoning Ordinance. Variances from these standards require approval by the Board. In addition, the Board hears appeals of conditional uses decided by the Hearing Examiner, as provided in the Zoning Ordinance. The Board of Appeals also holds hearings and rules on appeals from administrative actions of certain governmental departments and agencies, as provided in the County Code. Finally, the Board considers modifications to those special exceptions that were filed or approved before the

## BUDGET SUMMARY

	Actual FY18	Budget FY19	Estimate FY19	Recommended FY20	%Chg Bud/Rec
<b>COUNTY GENERAL FUND</b>					
<b>EXPENDITURES</b>					
Salaries and Wages	407,232	418,455	414,391	424,684	1.5 %
Employee Benefits	92,431	95,548	96,369	102,109	6.9 %
<b>County General Fund Personnel Costs</b>	<b>499,663</b>	<b>514,003</b>	<b>510,760</b>	<b>526,793</b>	<b>2.5 %</b>
Operating Expenses	31,470	65,227	44,158	36,239	-44.4 %
<b>County General Fund Expenditures</b>	<b>531,133</b>	<b>579,230</b>	<b>554,918</b>	<b>563,032</b>	<b>-2.8 %</b>
<b>PERSONNEL</b>					
Full-Time	3	3	3	3	—
Part-Time	0	0	0	0	—
FTEs	3.50	3.50	3.50	3.50	—
<b>REVENUES</b>					
Board of Appeals Fees	195,374	164,413	164,413	164,413	—
Other Charges/Fees	2,516	0	0	0	—
<b>County General Fund Revenues</b>	<b>197,890</b>	<b>164,413</b>	<b>164,413</b>	<b>164,413</b>	<b>—</b>

## FY20 RECOMMENDED CHANGES

	Expenditures	FTEs
<b>COUNTY GENERAL FUND</b>		
<b>FY19 ORIGINAL APPROPRIATION</b>	<b>579,230</b>	<b>3.50</b>
<b><u>Other Adjustments (with no service impacts)</u></b>		
Increase Cost: FY20 Compensation Adjustment	15,565	0.00
Increase Cost: Retirement Adjustment	1,120	0.00
Increase Cost: Board Member Stipend Increases	689	0.00
Decrease Cost: Mail Services [Zoning Related Hearings and Administrative Appeals]	(1,272)	0.00
Decrease Cost: Annualization of FY19 Personnel Costs	(4,584)	0.00
Decrease Cost: Printing Services [Zoning Related Hearings and Administrative Appeals]	(7,716)	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY19	(20,000)	0.00
<b>FY20 RECOMMENDED</b>	<b>563,032</b>	<b>3.50</b>

## FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY20	FY21	FY22	FY23	FY24	FY25
<b>COUNTY GENERAL FUND</b>						

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## FUTURE FISCAL IMPACTS

CE RECOMMENDED (\$000S)

Title	FY20	FY21	FY22	FY23	FY24	FY25
<b>EXPENDITURES</b>						
<b>FY20 Recommended</b>	563	563	563	563	563	563
No inflation or compensation change is included in outyear projections.						
<b>Labor Contracts</b>	0	4	4	4	4	4
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
<b>Subtotal Expenditures</b>	563	567	567	567	567	567