

Circuit Court for Anne Arundel County
Case No. C-02-CV-24-000945

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 40

September Term, 2025

IN THE MATTER OF
JENNIFER MORALES

Graeff,
Arthur,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: June 30, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

This appeal involves an application for rezoning filed by Jennifer Morales, appellee. On October 10, 2023, the Office of Administrative Hearings (the “OAH”), denied the application. Ms. Morales filed a notice of appeal to the Anne Arundel County Board of Appeals (the “Board”). Anne Arundel County (the “County”), appellant, filed a motion to dismiss, arguing that the notice of appeal was untimely. The Board granted the County’s motion and dismissed the appeal.

Ms. Morales filed a petition for judicial review in the Circuit Court for Anne Arundel County. The court granted Ms. Morales’ petition and remanded the case to the Board for a ruling on the underlying merits of the case.

On appeal, the County presents the following question for this Court’s review, which we have rephrased slightly, as follows:

Did the circuit court err in reversing the Board’s order granting the County’s motion to dismiss?

For the reasons set forth below, we shall reverse the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Ms. Morales filed an application to rezone her property, asserting that the surrounding neighborhood had been rezoned over the years, resulting in ten different zoning classifications within a one-mile radius of her property. On September 26, 2023, the OAH held a hearing. At the hearing, a zoning analyst testified, and letters in support of the rezoning request from neighbors were received into evidence. On October 10, 2023, the Administrative Hearing Officer denied Ms. Morales’ request for rezoning. Ms. Morales

received a copy of the decision via email on the same day.¹ The decision stated that, “[w]ithin thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.” Thirty days from the decision was November 9, 2023.

On November 9, 2023, Ms. Morales, through counsel, placed a notice of appeal in the mail. The United States Postal Service (“USPS”) attempted to deliver the notice on November 10, 2023, but the Board was closed for Veteran’s Day. The Board was closed the next two days, Saturday and Sunday, November 11 and 12, 2023. On November 13, 2023, USPS was closed in observance of Veterans Day. Counsel for Ms. Morales stated that she believed the notice was delivered to the Board on November 14 and processed by the clerk on November 15, 2023.

On November 16, 2023, Deana Bussey, Clerk of the Board, emailed Ms. Morales to inform her that the notice of appeal was incomplete because (1) it did not contain the date of the decision on appeal and (2) the \$250 check attached was insufficient to cover the appeal fee, which was \$400. The email stated: “Please provide a complete Notice of Appeal form and the required fee in order to file the appeal.” On November 17, 2023, Ms. Morales mailed a revised notice of appeal and a new check, which were received by the Board on November 20, 2023.

¹ The Office of Administrative Hearings (“OAH”) decision was also mailed to Ms. Morales on October 10, 2023.

On December 19, 2023, the County filed a motion to dismiss, alleging that Ms. Morales’ appeal was untimely because it was due on November 9, 2023, but it was not filed until November 20, 2023, 41 days after the decision by the OAH. On January 24, 2024, the Board held a hearing. Ms. Morales agreed that the appeal was due on November 9, 2023, but she argued that, under Maryland Rule 1-203(c), “if something is placed in the mail on the day that it is set to be filed, the time is extended by three days for that to be served,” and the appeal was placed in the mail on November 9, 2023. Ms. Morales argued that, even if the notice was not 100% accurate, technical defects did not bar the appeal, and it was timely filed.

Deanna Bussey, the clerk for the Board, testified that they received the initial notice in the mailroom on November 15, 2023. The next day, she saw the appeal, which was missing the date and had an insufficient fee. She testified that they do not process an appeal until they receive the correct fee. Accordingly, she set it aside and emailed Ms. Morales’ counsel regarding the deficiencies. The Board received the amended notice of appeal on November 20 and stamped it that day.

The County argued that it was Ms. Morales’ burden to ensure that the appeal was timely filed, and because it was not, the appeal should be dismissed.

On March 27, 2024, the Board granted the County’s motion and dismissed the appeal. In its memorandum of opinion, the Board stated:

The Board is sympathetic to the Petitioner’s argument that they do not have control over the delivery schedule of the postal service, but in this circumstance, it has no bearing. The Petitioner took an unnecessary risk given that the appeal was due on November 9, 2023, and decided to mail the

notice of appeal the same day. The Board is even less swayed given the Petitioner’s Counsel[]’s office is within walking distance of the Board’s office. Furthermore, the Board maintains a Dropbox for after-hours submissions. The rules require that the notice of appeal is received on or before the date it is due.

The Board stated that it was Ms. Morales’ burden to timely deliver the notice of appeal and correct filing fee, and the evidence presented reflected “a complete disregard for the rules and procedure that govern this Board.” It stated that, “[t]he rules prescribe an unwavering 30-day time frame and do[es] not authorize leniency for mailing.” Accordingly, the Board dismissed Ms. Morales’ appeal.

On April 16, 2024, Ms. Morales filed a petition for judicial review in the Circuit Court for Anne Arundel County. Ms. Morales argued that, because the OAH decision was mailed to her, Maryland Rule 1-203(c) applied.² She argued that, “[w]henever a party has the right or is required to do some act or take some proceeding within a prescribed period after service upon the party of a notice or other paper and service is made by mail, three days shall be added to the prescribed period,” and therefore, the appeal was due on November 12, 2023. Because November 12 was a Sunday, however, and November 13 was a federal holiday, Ms. Morales argued that the final date to appeal was tolled until November 14, 2023, the date the Board received the appeal letter. With respect to the

² Maryland Rule 1-203(c) provides:

Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after service upon the party of a notice or other paper and service is made by mail, three days shall be added to the prescribed period.

argument that the appeal form was missing one piece of information, the date of the decision, that was a technical error that was not a basis to dismiss the appeal.

The County argued that the interpretation of timeliness was governed by the Anne Arundel County Code (the “County Code”), which limited the time to appeal to 30 days. The language of Maryland Rule 1-203(c) did not apply here because the deadline to note an appeal was not tied to “service on the person of a notice or other paper.” The County stated that, if the only deficiency was the lack of noting the date of the order, that might constitute a mere technicality, but here, the most significant deficiency was that the appeal was not timely filed on November 9, 2023. It argued that, because the appeal was not timely filed, the Board lacked jurisdiction to hear the appeal, and it properly dismissed the appeal.

On February 10, 2025, the court held a hearing. Ms. Morales argued that the mailbox rule applied based on the language of Maryland Rule 1-203. Ms. Morales alleged that if the court accepted the County’s interpretation, the zoning hearing officer could arbitrarily reduce Ms. Morales’ time to appeal by waiting to send out its decision after filing it. The County argued that Ms. Morales did not file the notice of appeal until November 20, 2023, when it was accompanied with the correct fee because the Board could not accept the appeal until they received the necessary fee. The County alleged that, in order for Maryland Rule 1-203(c) to be applicable,

[T]wo conditions must be present. First, the party must have received service of process by mail. Second, the party served must have a right or obligation to perform an action after being served by mail within a specified period of time. Only when both conditions are satisfied is the party exercising such a right or performing an obligation afforded 3 days beyond the applicable period to avail such right or perform the obligation.

The County contended that, since the decision was served by email, and the County Code lacked the same language as Maryland Rule 1-203(c), Ms. Morales did not have an additional 3 days beyond November 9 to file the appeal.

The circuit court discussed an unreported opinion of this Court, which the circuit court construed as saying that the standard to apply was substantial compliance as opposed to “strict interpretation of the time standards.”³ It found that Ms. Morales’ failure to comply with the 30-day time deadline did not require dismissal of the appeal. The court granted Ms. Morales’ petition and remanded the case to the Board to go forward on her claim.

This appeal followed.

STANDARD OF REVIEW

“Judicial review of an administrative decision ‘generally is a narrow and highly deferential inquiry.’” *Geier v. Md. State Bd. of Physicians*, 223 Md. App. 404, 430 (2015) (quoting *Seminary Galleria, LLC v. Dulaney Valley Improvement Ass’n*, 192 Md. App. 719, 733 (2010)) (cleaned up). We use the following standards of review:

For fact findings, a reviewing court applies the “substantial evidence” standard, under which the court defers to the facts found and inferences drawn by the agency when the record supports those findings and inferences.

³ At the time the opinion referenced was issued, in 2018, Maryland Rule 1-104(b) provided that unreported opinions “may be cited . . . for any purpose other than as precedent within the rule of stare decisis or as persuasive authority.” We will not cite the opinion for that purpose, but we note that, in the case referenced, *Boyd v. American Airlines, Inc.*, No. 877, 2018 WL 5096077, at *3 (Md. App. Ct. Oct. 18, 2018), the petition for judicial review was timely filed.

[*Maryland Dep’t of Env’t v. Anacostia Riverkeeper*, 447 Md. 88, 120 (2016)].

* * *

With respect to an agency’s legal conclusions, a reviewing court accords the agency less deference than with respect to fact findings or discretionary decisions. *Anacostia Riverkeeper*, 447 Md. at 122. In particular, a court will not uphold an agency action that is based on an erroneous legal conclusion. *Id.* However, in construing a law that the agency has been charged to administer, the reviewing court is to give careful consideration to the agency’s interpretation.

Concerned Citizens of Cloverly v. Montgomery Cnty. Plan. Bd., 254 Md. App. 575, 598 (2022) (quoting *Md. Dep’t of Env’t Cnty. v. Comm’rs of Carroll Cnty.*, 465 Md. 169, 201-03 (2019)).

Our role in reviewing an agency decision “is precisely the same as that of the circuit court.” *Mid-Atl. Power Supply Ass’n v. Md. Pub. Serv. Comm’n*, 143 Md. App. 419, 432 (2002) (quoting *Dep’t of Health & Mental Hygiene v. Shrieves*, 100 Md. App. 283, 303-04 (1994)). We do not consider the circuit court’s findings of fact and conclusions of law. *Id.* *Accord Md. Off. of People’s Couns. v. Md. Pub. Serv. Comm’n*, 226 Md. App. 483, 500 (2016).

DISCUSSION

The County contends the Board properly dismissed Ms. Morales’ appeal because she failed to file her notice of appeal by November 9, 2023, and therefore, it was untimely. It asserts that the date of filing is the date the clerk receives the document, not the date the document is placed in the mail. Moreover, it argues that, even if the mailbox rule applied, the document mailed did not have the attached filing fee that is required under County

Code Rule 2-103(a), the Board may only accept a notice of appeal that contains the relevant fee, and therefore, the appeal was not accomplished until November 20, 2023.

Ms. Morales did not file a brief in this appeal.

This case involves a legal issue involving timeliness under County Code Rule 2-101. In interpreting this ordinance and determining when the notice of appeal should have been filed, we follow well-settled principles of statutory construction, as follows:

When undertaking an exercise in statutory interpretation, we start with the cardinal rule of statutory interpretation—to ascertain and effectuate the General Assembly’s purpose and intent when it enacted the statute. *75-80 Properties, L.L.C. v. RALE, Inc.*, 470 Md. 598, 623, 236 A.3d 545 (2020). “A court’s primary goal in interpreting statutory language is to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by the statutory provision under scrutiny.” *Lockshin v. Semsker*, 412 Md. 257, 274, 987 A.2d 18 (2010) (citations omitted).

To ascertain the intent of the General Assembly, our analysis begins with the normal, plain meaning of the language of the statute. *Id.* at 275, 987 A.2d 18. In doing so, we read the plain meaning of the language of the statute “as a whole, so that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.” *Koste v. Town of Oxford*, 431 Md. 14, 25-26, 63 A.3d 582 (2013) (internal quotations omitted). Additionally, “[w]e neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute ‘with forced or subtle interpretations’ that limit or extend its application.” *Lockshin*, 412 Md. at 275, 987 A.2d 18 (citations omitted). “If the language of the statute is unambiguous and clearly consistent with the statute’s apparent purpose, our inquiry as to legislative intent ends ordinarily and we apply the statute as written, without resorting to other rules of construction.” *Id.*

Wheeling v. Selene Fin. LP, 473 Md. 356, 376-77 (2021). *Accord Crawford v. Cnty. Council of Prince George’s Cnty.*, 482 Md. 680, 697-98 (2023) (applying principles of statutory construction to an ordinance). We further give the ordinance a “reasonable

interpretation, not one that is absurd, illogical, or incompatible with common sense.” *Wheeling*, 473 Md. at 377 (quoting *Lockshin*, 412 Md. at 276).

Accordingly, we begin with the plain language of the County Code. As indicated, County Code Rules of Practice and Procedure of the Board of Appeals Rule 2-101(a) provides that “[a]ll appeals from orders or decisions . . . shall be taken within 30 days of the date of such order or decision, except where a different period is prescribed by law or rule, by the filing of a notice of appeal with the County Board of Appeals.”⁴ Unless the ordinance indicates otherwise, “shall” indicates a mandatory intent. *Burch v. State*, 358 Md. 278, 284 (2000). *Accord Perez v. State*, 420 Md. 57, 63 (2011) (“When the Legislature commands that something be done, using words such as ‘shall’ or ‘must’ rather than ‘may’ or ‘should,’ the obligation to comply with the statute or rule is mandatory.”) (quoting *State v. Green*, 367 Md. 61, 82 (2001)). Thus, pursuant to the plain language of the code, a notice of appeal must be filed with the County Board of Appeals within 30 days of the order or decision subject to appeal.

Here, the OAH decision was filed on October 10, 2023. Not including the date of decision, a notice of appeal must have been filed with the Board by Thursday, November 9, 2023.

⁴ Under County Code Rules of Practice and Procedure of the Board of Appeals Rule 1-105(a)(2), Saturday, Sunday, and County holidays are included in the 30-day deadline. The date of the decision does not count toward the 30 days. *Id.*

In her petition to the circuit court, Ms. Morales argued that, because the OAH decision was mailed to her, Maryland Rule 1-203(c) applied and extended the notice of appeal deadline to November 12, 2023. We disagree.

In *Fallston Meadows Cmty. Ass’n v. Bd. of Child Care of Balt. Ann. Conf. of the United Methodist Church*, 122 Md. App. 683, 698, *cert. denied*, 351 Md. 286 (1998), we explained:

The applicability of the Maryland Rules is specified in Md. Rule 1-101. Rule 1-101(a) states that “Title 1 applies to all matters in all courts of this State, except the Orphans’ Courts and except as otherwise specifically provided.” It is well established that a County Board of Appeals is neither “a court of competent jurisdiction nor judicial tribunal.” *See Board of County Com’rs of Cecil County v. Racine*, 24 Md. App. 435, 444, 332 A.2d 306 (1975) (quoting *Knox v. Baltimore*, 180 Md. 88, 93, 23 A.2d 15 (1941)). Accordingly, the Board of Appeals is not subject to the dictates of the Maryland Rules. Rather, the time prescribed for filing appeals is governed by the local regulations.

As such, the time prescribed for filing a notice of appeal to the OAH’s decision was governed by the Anne Arundel County Code.

The County Code, however, contains a similar provision to Maryland Rule 1-203. County Code Section 1-1-103(3) provides that, “[w]henever a person has the right or is required to do some act or take some proceeding within a prescribed period after service on the person of a notice or other paper and service is made by mail, three days shall be added to the prescribed period.”

In *Kamara v. Edison Bros. Apparel Stores, Inc.*, 136 Md. App. 333, 337 (2001), we held that, the language of Maryland Rule 1-203 applies only “when service is a prerequisite to triggering the clock.” County Code Rule 2-101(a) specifically states that the notice of

appeal must be filed “within 30 days of the date of such order or decision” being appealed. It does not require action to be taken after service, and therefore, under the reasoning of *Kamara*, County Code Section 1-1-103(3) does not apply and the notice of appeal deadline was not extended by three days. We have explained that “mailing” and “filing” are not equivalent. *Bush v. Pub. Serv. Comm’n of Md.*, 212 Md. App. 127, 136-37 (2013). *Accord Bock v. Ins. Comm’r of State of Md.*, 84 Md. App. 724, 730 (1990) (“The mailing of the appeal to the Clerk is not made the equivalent of filing it with him.”) (quoting *Renehan v. Pub. Serv. Comm’n*, 231 Md. 59, 63 (1963)).

The Board did not err in granting the County’s motion to dismiss Ms. Morales’ notice of appeal as untimely. The OAH issued its decision on October 10, 2023. Ms. Morales had until November 9, 2023, to file her notice of appeal with the Board. Although she mailed her notice of appeal to the Board on November 9, 2023, it was not filed with the Board until November 15, 2023.⁵ See *United Parcel Serv. v. People’s Couns. for Balt. Cnty.*, 336 Md. 569, 580 (1994); *Walbert v. Walbert*, 310 Md. 657, 662 (1987)). The Board properly found that the notice of appeal was untimely, and it properly dismissed the appeal.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
REVERSED. COSTS TO BE PAID BY
APPELLEE.**

⁵ Because the initial notice of appeal was untimely filed, we need not address the argument that the actual filing date was later due to deficiencies in the initial notice of appeal.