Zoning in the District of Columbia

Regulatory Path of a Typical Appeal

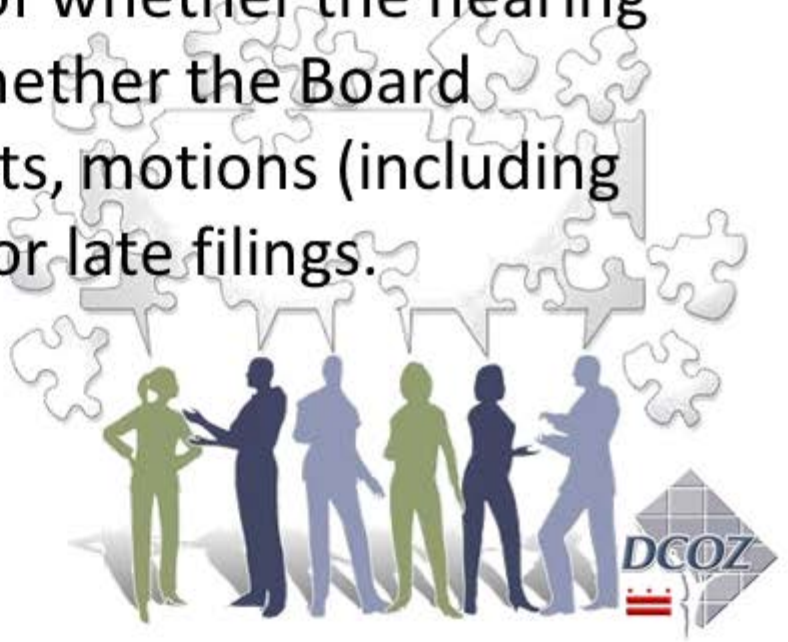
Hearing

Appeal

Start of the Hearing

Opening Statement by the Chairperson of the Board of Zoning Adjustment (BZA or Board)

Preliminary Matters - Discussion of whether the hearing will proceed that day, including whether the Board approves intervenor status requests, motions (including motions to dismiss), and waivers for late filings.



Appeals

Call of the Case and Appellant's Presentation

Call of the Case

- OZ staff calls the case by stating the case description and swears in the witnesses.

Appellant's Presentation

Questions by the Board of the Appellant

Cross-Examination of the Appellant by other parties/intervenors

Appeals

Parties or Intervenors in Support

The respective cases of the parties or intervenors in support of the appeal

Questions by the Board of the parties or intervenors in support of the appeal

Cross-Examination of the parties or intervenors in support of the appeal by other parties/intervenors

Appeals

Administrative Official

Administrative official's (appellee's) case (**usually the ZA**)

Questions by the Board of the administrative official

Cross-Examination of the administrative official by other parties/intervenors

Appeals

Parties or Intervenors in Opposition

The respective cases of the parties or intervenors in opposition to the appeal

Questions by the Board of parties or intervenors in opposition

Cross-Examination of parties or intervenors in opposition by other parties

Appeals

Close of the Hearing

Rebuttal evidence from the appellant, followed by rebuttal evidence from the parties in support of the appeal.

Closing arguments

Record Open - If the record is left open, additional information may be allowed into the record until it is closed.

Record Closed - Once the record is closed, no additional documents may be filed.

Appeal

Decision

Bench Decision - The Board may render a decision at the conclusion of the hearing, if it so chooses.

Public Decision Meeting - If the Board does not issue a bench decision, the decision will be scheduled for a public decision meeting.

Final Order - A written decision called an order is issued.

Appeals

Tips for the Appellant

1. Appellant goes first and presents their case.
   - Appellants are normally granted up to 60 minutes to present their case – that means ALL the witnesses supporting the Appellant's case.
2. Do you have witnesses (i.e. lawyer, architect, transportation consultant, arborist, etc.)? If so, are your witnesses qualified as an expert in their field?
   - You must indicate ahead of time if you wish your witness to be considered an expert. The BZA will take this up as a preliminary matter.
3. Be prepared to have your testimony clearly show how you plan on proving your case, including:
   - A statement demonstrating that the appeal meets the jurisdictional requirement of timeliness, including the date upon which the appellant first had notice or knowledge of the decision being appealed and the circumstances under which such notice or knowledge occurred;
   - A statement as to how the appellant has standing to bring the appeal, specifically with regard to the administrative decision being appealed; and
   - A statement of the issues on appeal, identifying the specific manner in which the appellant is aware of the allegations of error in the administrative decision, and the relevant provisions of the Zoning Regulations.
4. Be ready to respond to questions from the BZA, as well as cross examination from the administrative official, the ANC, and intervenors.
5. You might be asked to provide additional information/evidence (the record may be left open, but only for requested items).

Appeals

Tips for Persons Wishing to Testify

1. Let the Office of Zoning know ahead of time of any special needs.
2. Come on time and be prepared to take oath at the start of the session.
3. Take a copy of the hearing agenda, which is located in the wall bin near the door.
4. All persons planning to testify, either in favor or in opposition, must fill out two witness cards (located near the door) and give them to the court reporter.
5. Bring at least 12 copies of your testimony (and any exhibits) – it is easier for BZA members to follow what you are saying.
6. When presenting information to the Board please turn on and speak into the microphone, first stating your name and home address. When finished speaking, please turn the microphone off so that the microphone is no longer picking up sound or background noise.
   - NOTE: If you get up to use demo boards, you will need the portable microphone.
7. Please be advised that proceedings are recorded by a court reporter and are also webcast live. Accordingly, please refrain from any disruptive noises or actions in the hearing room.
8. DO **NOT** ENGAGE IN *EX PARTE* CONVERSATION WITH ZC OR BZA.

DCOZ

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