

Zoning in the District of Columbia

Regulatory Path of a Typical Appeal

Pre-Hearing



Appeals

Section 3112.2

Pursuant to the Zoning Regulations, any person aggrieved by any **order, requirement, decision, determination, or refusal** made by an **administrative officer or body, including the Mayor of the District of Columbia**, in the **administration or enforcement of the Zoning Regulations** may file a timely appeal.



Most appeals are of the decision of the Zoning Administrator (ZA) at the Department of Consumer and Regulatory Affairs (DCRA).



Appeals

Timeliness

An appeal must be filed within **60 days** from the date the person appealing the administrative decision **had notice or knowledge of the decision complained of**, or **reasonably should have had notice or knowledge of the decision complained of**, whichever is earlier.



60
days

Appeals

Timeliness

If the decision complained of involves the erection, construction, reconstruction, conversion, or alteration of a structure or part thereof, the latest date on which an appeal may be filed is ten (10) days after the date on which the structure or part thereof in question is under roof*.



- * The phrase "under roof" means the stage of completion of a structure or part thereof when the main roof of the structure or part thereof, and the roofs of any structures on the main roof or part thereof, are in place.

Appeals

Timeliness



The Board may extend the 60-day deadline for the filing of an appeal only if the appellant demonstrates that:

- (1) There are **exceptional circumstances** that are outside of the appellant's control and could not have been reasonably anticipated that substantially impaired the appellant's ability to file an appeal to the Board; and
- (2) The extension of time **will not prejudice** the parties to the appeal.

Appeals

Appeal Process

The Appellant will then need to file a Form 125 – Appeal with the Board of Zoning Adjustment (BZA) using the online Interactive Zoning Information System (IZIS) at www.dcoz.dc.gov. The appeal submission should contain:



Appeal form



A copy of the administrative action (permit, revocation letter, etc.) being appealed.

A statement of each and every exception to the administrative decision, in specific detail.

Details should state the allegations of error in the administrative decision – “why it was an error” – and reference the relevant Sections of the Zoning Regulations and/or Map.



Appeals

Application Process



Surveyor's plat, if applicable.



A detailed statement explaining how the Appellant intends to prove its case.



If any, architectural plans and elevations in sufficient detail to clearly illustrate any proposed building to be erected or altered, proposed landscaping/ screens and building materials as they relate to the specifics of the appeal.

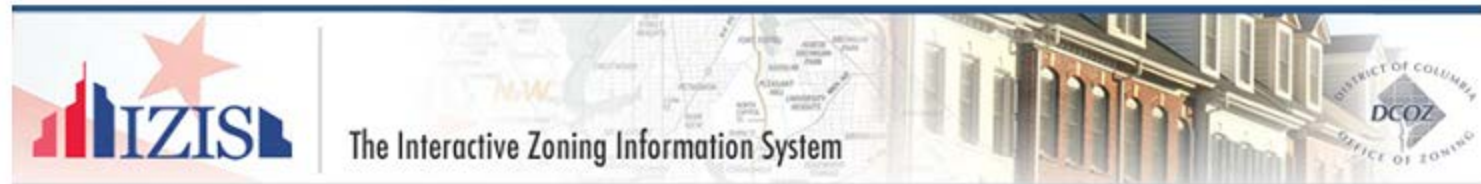


Fee

Appeals

Office of Zoning – Processing Appeal

The BZA Secretary reviews appeal for completeness, and in the event information is missing, BZA staff will contact the Appellant to obtain the missing information. The appeal is then given a case number and a case file is started to keep all associated documents. This case file is called the **record**. The record is electronically accessible through IZIS.



Appeals

Automatic Parties



In a zoning appeal, the following persons automatically have party status:

- ✓ The **appellant**;
- ✓ The person whose administrative decision is the subject of the appeal, the appellee (**usually the ZA**);
- ✓ The owner, lessee, operator, or contract purchaser of the property that is the subject of the administrative decision, if different from the appellant; and
- ✓ The Advisory Neighborhood Commission (ANC) for the area within which the property that is the subject of the appeal is located.

Appeals

Office of Zoning – Notice of Filing

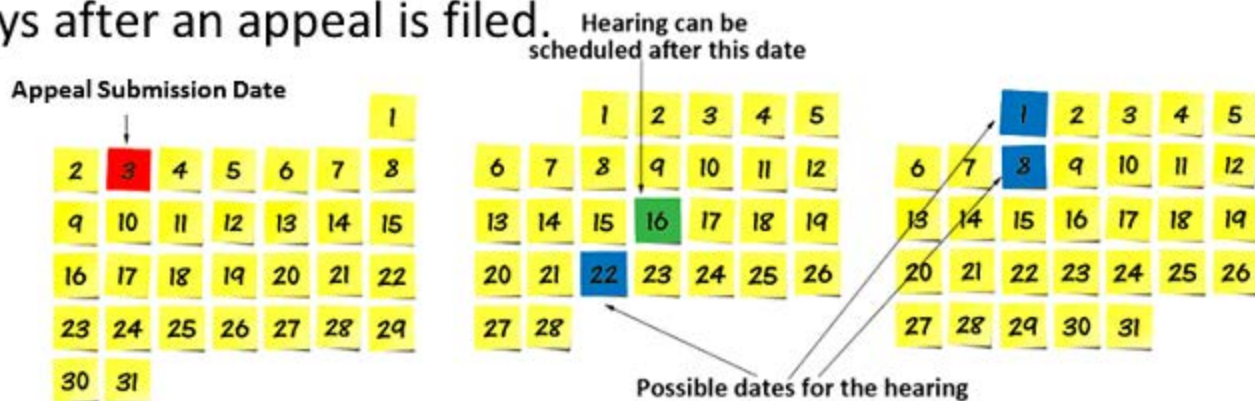
A **Notice of Filing (otherwise known as a referral)** is sent to all automatic parties and the Single-Member District (SMD), City Councilmember, the Office of Planning (OP), and other government agencies, as required.



Appeals

Office of Zoning – Scheduling the Hearing

In determining the date of the hearing, OZ must allow sufficient time for the automatic parties to review the appeal and file statements, information, briefs, reports, plans, or other materials. ANC law stipulates that 30 days written notice (excluding Saturdays, Sundays and legal holidays) be provided to the ANC. Therefore, the hearing dates are scheduled at least 45 days after an appeal is filed.



Appeals

Office of Zoning – Public Hearing Notice

The **Public Hearing Notice (or the official hearing notice)** stating the hearing date are sent to the *D.C. Register*, and all automatic parties at least **45 days prior to the hearing**.



Appeals

Office of Zoning – Public Participation in a Case

Request Intervenor Status - Persons who wish to participate as an intervenor must file the intervenor status request at least **14 days prior to the hearing** and clearly demonstrate that their interest would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action or decision than others in the general public.



Submission into the Record - Anyone can submit a written letter in support of or in opposition to a case into the record, as long as the record is open.



Appeals

Office of Zoning – ANC Report

ANC Report - The ANC must file a report at least **7 days prior to the hearing**. The ANC Report is given “great weight” by the Board. The following should be included in the report:

- An identification of the case number;
- Date when ANC held a public meeting to consider the case;
- Proof that proper notice of the meeting was given by the ANC;
- The number of ANC members that constitute a quorum and the number of members present;
- The issues and concerns of the ANC about the case as these relate to the Zoning Regulations;
- Recommendations, if any;
- The vote on the motion to adopt the report;
- The name of the person authorized to present the ANC report; and
- Signature of the Chair and/or the Vice-Chair.



Appeals

Office of Zoning – Hearing

Hearing - BZA hearings are generally held on Tuesdays, between the hours of 9:30 a.m. and 6:00 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, NW, Suite 220-S.



For more information



www.dcoz.dc.gov



dcoz@dc.gov



(202) 727-6311



441 4th Street, NW, Suite 200-S, WDC, 20001



Judiciary Square Metro



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