

Process to be Used for a Hearing on an Appeal of a Planning Commission Decision to the Board of Adjustment (Municipal Code Chapter 19.92)

- A. The hearing will be recorded.
- B. The hearing will be conducted in public session, however there will be no public testimony taken. The appellant, the Department Director and the owner of the property affected by the Planning Commission Decision will be the only parties allowed to present argument. The parties may be represented by counsel.
- C. Argument will be limited to the legal and factual grounds for appeal as raised by the parties, as are limited to the matters described in section I below. The appeal shall be decided upon the factual record created before the Planning Commission, unless the Board allows the factual record to be supplemented, with reasonable provision granted for the other parties to the appeal to respond to any supplemental information.
- D. Those presenting argument may be asked questions by the members of the Board of Adjustment only.
- E. The order of presentation is set out below:
 - 1. The Appellant will present the grounds for appeal of the Planning Commission Decision.
 - 2. The Department Director will present her report and recommendations.
 - 3. The Appellant will be allowed time for responsive argument.
- F. The Chair shall establish reasonable time limits for the parties to present argument.
- G. After argument has been completed, the Board shall close the argument portion of the hearing and will proceed with motion matters and deliberations to decide the appeal. The decision must be rendered within ten days after the hearing.
- H. The Appellant shall bear the burden of proof that the decision appealed from was made in error.
- I. Per section 19.92.020B, the Board may grant an appeal only if:

1. The Appellant establishes the Planning Commission made an error in the application of pertinent laws;

2. The Appellant establishes the decision is not supported by adequate written findings or the findings fail to inform of the basis upon which the decision appealed from was made;

3. The Appellant establishes the Planning Commission failed to follow procedures; or

4. The Appellant establishes there was misrepresentation of a fact.

J. In making its decision, the Board may reverse or affirm, wholly or partly, the decision, or may modify the decision, and may make any order, requirement, decision or determination which it determines appropriate under pertinent law.

K. The Board's formal action to grant or deny the appeal shall be subsequently formalized in writing and mailed to the Appellant and affected land owner.