

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of establishing procedures
to simplify appeals in quasi-judicial
land use cases and evaluating the
effectiveness of the procedures after a
trial period

RESOLUTION

94-56

WHEREAS, pursuant to state law and the county code, the Board acts as a quasi-judicial body in certain types of land use cases, applying approval criteria to relevant facts; and

WHEREAS, past Boards have narrowed the scope of appeals by limiting or precluding the introduction of new evidence; and

WHEREAS, the Board finds that some of the more technical procedures used in the past, such as limiting the evidence to the record, are difficult to apply consistently, and distract the participants in the process from the underlying land use planning issues in appeals; and

WHEREAS, in the interest of making land use appeals more user-friendly, the Board wishes to open up the process in accord with attachment A to this Resolution; and

WHEREAS, the Zoning Code permits the Board to specify that appeals will be held on a de novo basis as detailed in Attachment A; and

WHEREAS, the procedures in Attachment A may have positive and negative impacts for users of the system; therefore, they should be implemented on a trial basis and then be evaluated.

NOW, THEREFORE, BE IT RESOLVED

1. The first five land use appeals reported to the Board after this Resolution is adopted will be conducted in accord with the procedures set forth in Attachment A to this Resolution;
2. The Planning Director will notify parties to appeals about this change;

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3. Any appeal reported to the Board before adoption of this Resolution, in which the Board has made a ruling as to the appropriate scope of review but has not yet conducted the hearing on the appeal itself, shall be conducted according to the Board's previous scope of review ruling;
4. The Planning Director shall coordinate an evaluation of the procedures set forth in Attachment A. The evaluation shall be based on input from all user-groups.
5. A report by the Planning director shall be made to the Board after five (5) appeals are completed using the above-mentioned procedures.

ADOPTED this 24th day of March, 1994.



By

Beverly Stein
Beverly Stein, Chair
Multnomah County, Oregon

REVIEWED:

Laurence Kressel
Laurence Kressel, County Counsel
of Multnomah County, Oregon

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Land Use Appeal Procedures

1. When an appealed decision is reported to the Board, the Board shall set a date and time for the appeal hearing.
2. The scope of review of each appeal shall be de novo, as that term is used in Section 11.15.8270 of the Zoning Code. The record established at the Hearings Officer level, as well as the Officer's Findings and Conclusions, shall be made available to the Board prior to the appeal hearing. The record shall also be available at the hearing itself. However, the parties shall also be permitted to introduce new evidence (i.e. evidence not already in the Record) relevant to the case during the hearing, subject to the time limits set by the Board. Evidence can consist of oral statements, written reports, studies or other documents, photographs, slides and similar material.
3. Order of Presentations: After the presentation by staff and the Hearings Officer (if a Hearings Officer report is requested by the Board), each side shall have 20 minutes to present its case. The appellant shall make the first presentation and may reserve a portion of its time for rebuttal. The Board may extend the time for presentations in appropriate cases.
4. The parties shall be permitted to use their allotted time for any combination of the following:
 - (a) Presentation of relevant evidence;
 - (b) Argument as to whether the Board should affirm,

reverse or modify the Hearings Officer's decision,
based on the relationship between the evidence and
the approval criteria governing the application.

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