



# CITY AND COUNTY OF DENVER

DEVELOPMENT SERVICES

**BUILDING**  
Board of Appeals  
201 West Colfax, Dept. 205  
Denver, CO 80202  
720-865-2705  
<http://www.denvergov.org>

## BOARD OF APPEALS

# TIPS FOR PRESENTING YOUR APPEAL

THE FOLLOWING IS GENERAL INFORMATION REGARDING THE PRESENTATION OF APPEALS BEFORE THE BUILDING DEPARTMENT BOARD OF APPEALS IN ORDER TO ASSIST YOU, AS A MEMBER OF THE PUBLIC, IN APPEALS BEFORE THE BOARD. THIS INFORMATION IS GENERAL AND SHOULD NOT BE INTERPRETED AS LEGAL ADVICE, NOR DOES IT SUPERSEDE ANY REQUIREMENT OF AN APPLICABLE CITY CODE OR RULE AND REGULATION.

### Time Allotment

- Show up on time.
- Your case may or may not be the first one called.
- Your case is generally allotted fifteen (15) minutes.
- The board will attempt to arrive at a decision the day of your hearing but may need to extend it another month due to lack of information, complexity, or time constraints on the hearing docket.

### Limited Power of Attorney

- Do not consider the use of a Limited Power of Attorney lightly.
- The Limited Power of Attorney is a legal document giving the owner's representative full responsibility to make decisions on behalf of the owner within the scope of the appeal.
- It behooves the owner to be present at the hearing if at all possible.
- The Limited Power of Attorney may create potential sources of conflict between the owner and the owner's representative.
- It is not a requirement that you have representation. However, board hearings are quasi-judicial. Decisions have the force of law. Legal consultation may be advisable.
- The Board is required to honor a valid Limited Power of Attorney if presented at the hearing.

### Potential Impacts to Your Deed

- Be aware that the Board may require the outcome of the appeal to be recorded as a real estate document affecting the owner's property which will appear in a title search on the owner's property.
- Your signature is not required for the recordation and you may not be further notified outside of your hearing.
- Recordation is effective immediately.
- The recordation may only apply to you or the current use(s) of the building and not necessarily stay with your property. Future owners may need to apply for a variance themselves. Potential buyers or lenders may interpret the variance as an encumbrance.

### The Reasons for an Appeal

Under the Building Code, your appeal must be based on one or more of three (3) reasons. You must present your case to address the applicable reason(s). The three reasons for appeals are:

- Exceptional and extraordinary circumstances of financial hardship and other factors which may justify a variance;



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- Code interpretation (applicable codes, as adopted by the City and County of Denver) which may justify an administrative review and reversal of an erroneous Building Department decision; and
- New construction materials or methods which, properly approved or tested and certified, may justify a variance.

The success of your appeal will largely depend on you. You are responsible to convince the Board of your situation, your circumstances, and your goal. It pays to be well prepared with information. The Board wants to see and hear all about your case but lack of information may result in denial of your appeal. More information will increase your chances of convincing the Board to grant your appeal.

The following are examples of presenting good information to make your case:

- Financial hardship in arguing for a variance – present a financial analysis
  - Your cashflow
  - Your liabilities
  - Your assets
  - Value of work
  - Cost of fixing deficiency
  - Be as objective as you can when defining your interpretation of “hardship”
- Code Interpretation – know the code at issue
  - What is the date your property was initially constructed?
  - What was the code at the time of original construction?
  - What is the current code in question?
  - Is there a life-safety issue caused by the deficiency?
  - Would a future buyer need to know or care about the deficiency?
- New Construction Materials or Methods – research the new material or method
  - Present trade papers or manufacturers’ studies.
  - Present other similar projects where the material or method has been used successfully.
  - Identify city or county codes in other areas of the state or country where the new material or method has been recognized and approved.
  - Present how the new material or method is equivalent to the code in question.
  - Provide an approval or certified test results with respect to the new material or method from an approved testing agency.

### **Knowledge and Representation of the Code**

- It will help you to know and understand the meaning of the code citation you are appealing.
- All applicable codes can be viewed at the Denver Building Department or a public library.
- You can consult an expert.