

HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER

In the Matter of

FREDERICK W. RAULIN

Respondent

**Civil Citation Nos. CE 11-068-1,
CE 11-068-2, CE 11-068-3, CE 11-068-4,
CE 11-068-5**

FINAL ORDER

This matter came before the Howard County Board of Appeals Hearing Examiner for a September 22, 2011 hearing on four citations for violations of Department of Planning and Zoning Regulations (HCZR), and one citation for a violation of Department of Planning and Zoning Subdivision and Land Development Regulations (SLDR) on property known as 15160 Bushy Park Road. The five citations and violations are as follows.

TABLE I		
Citation No.	Violation	Description of Violation
11-068-1	HCZR Sections 104.C.7.b & 128.D.7	Has continued to have off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles on RC (Resource Conservation) zoned property
11-068-2	HCZR 101.0 & 104.B&C	Has continued to have parking or storage of inoperable or unregistered trailers on RC zoned property
11-068-3	HCZR 101.0 & 104.B&C	Has continued the storage of vehicle parts, accessories and tires on RC zoned property
11-068-4	HCZR 101.0 & 104.B&C	Has continued the storage of heavy construction equipment on RC zoned property
11-068-5	SLDR 16.115	Has continued the dumping and disposing of debris, building materials, trailers, fuel drums, farm equipment, heavy construction equipment, automobiles, automobile parts, accessories and tires within a stream bank and or flood plain

On July 20, 2011, pursuant to Howard County Code (HCC) Title 24, "Civil Penalties," and Subtitle 3 of Title 16 of the HCC, DPZ Zoning Inspector Tamara Frank issued the five civil

citations to Respondent. The citations were sent by mail and addressed to Frederick W. Raulin, at 15101 Frederick Road, 21797.

DPZ requested a fine in the amount for two thousand dollars for each violation, based on the July 28, 2011 date of the request for a hearing, for a total fine of ten thousand dollars.¹ DPZ also requested the Hearing Examiner to order Respondent to bring the property into compliance with thirty days or, alternatively, to pay the fines within 30 days.

Nowelle Ghahhari, Assistant County Solicitor, represented the Department of Planning and Zoning. Zoning Inspector Tamara Frank and DPZ witness Timothy Healey appeared for the hearing and testified. William Erskine, Esq. represented Frederick W. Raulin. Frederick W. Raulin appeared for the hearing and testified.

The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Department of Planning and Zoning introduced into evidence the exhibits as follows.

1. Plat # 12877, August 13, 1997, Village of three Keys, Lots 1 thru 4 and Preservation Parcel 'A'
- 2A-S. Photographs taken by Inspector Frank on May 15, 2011
3. Notice of violations, June 13, 2011
- 4A-U. Photographs taken by Inspector Frank on July 19, 2011
5. Five citations issued on July 20, 2011.
- 6A-K. Photographs taken by Inspector Frank on September 21, 2011
- 7A-V. Photographs taken by Inspector Frank on June 16, 2011
8. 2007 Aerial photograph of 15160 Bushy Park Road and 15101 Frederick Road
9. 2009 Aerial photograph 15160 Bushy Park Road and 15101 Frederick Road

¹ There appeared to be some uncertainty as to the date when DPZ actually received the request for a hearing. DPZ is therefore requesting fines for five days in violation per citation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Zoning Inspector Tamara Frank testified to receiving a May 13, 2011 complaint about the Property alleging an accumulation of trash, vehicles, construction equipment, and dumping in the creek and border. Referring to DPZ Exhibit 1, Inspector Frank explained Respondent had developed the subdivision off his larger property. Preservation Parcel A is the property where the violations are located.

2. Inspector Frank inspected and photographed the Property on May 13, 2011. DPZ Exhibits 2A-K depict vehicles on the property, vehicles close to the stream, building materials, construction materials, tires, automobile equipment, 55 gallon drums, and other debris and materials. She issued Respondent a notice of violation on June 13, 2011. The notice informed Respondent of five violations of the HCZR and SLDR on the property known as 15160 Bushy Park Road. The notice was sent to Frederick W. Raulin at 15101 Frederick Road.

3. Inspector Frank issued Respondent five civil citations, CE 11-068-1, CE 11-068-2, CE 11-068-3, CE 11-068-4, and CE 11-068-5 on July 20, 2011 (DPZ Exhibit 5). The specifics of the five citations are set forth above. She issued the five citations after reinspecting the Property on July 19, 2011. She documented her photographs in DPZ Exhibit 4A-U. Photographs 4A-B depict the use in common driveway-providing access to the Property, Preservation Parcel A. Photographs 4D-U depict heavy construction materials, debris vehicles, auto accessory parts and tires. The reinspection indicated there was no change since her last inspection.

4. Inspector Frank reinspected the Property on September 21, 2011 and documented

her observations in photographs, DPZ Exhibit 6A-K. She testified to the photographs depicting no changes on the Property. Visible in the photographs are untagged, unregistered, wrecked or inoperable vehicles, parts of vehicles, tires, oil drums building materials, and heavy construction materials.

5. On cross-examination, Inspector Frank explained how the particular items depicted in the photographs comprising DPZ Exhibit 6A-K support the five citations. Her testimony is presented in Table II.

TABLE II			
Citation No.	Violation	DPZ Exhibit No.	Evidence Supporting the Violation
11-068-1	HCZR Sections 104.C.7.b & 128.D.7	6A, 6B, 6F, 6H, 6I, 6J, 6K	Stake body truck in center of photograph, no tags, red pickup truck with full bed with no tags displayed, red box truck and green panel vehicle and turquoise box truck, grey box truck, red tow truck (no vehicle displayed tags), red truck
11-068-2	HCZR 101.0 & 104.B&C		Trailers not depicted in photographic Exhibit 6
11-068-3	HCZR 101.0 & 104.B&C	6B, 6C, 6D, 6E, 6G	Pile of tires between mulcher and stake body truck, gas tank and wheels on top of 55 gallon drums, a second pile of tires, more tires, gas tanks and exhaust systems from automobiles
11-068-4	HCZR 101.0 & 104.B&C	6A, 6B, 6C	John Deere Bobcat and industrial mulcher for grinding up trees (heavy construction equipment)
11-068-5	SLDR 16.115		See Findings of Fact

6. On cross-examination about evidence supporting the CE 11-068-2 citation for trailers, Inspector Frank testified no trailer was depicted in any DPZ Exhibit 6A-K photograph because the photographs are a summary of what she observed and that there are other pieces of heavy construction equipment on the Property. Inspector Frank did not observe any other

heavy construction equipment during the September 21, 2011 reinspection because she did not go that far into the Property. She did not know if any vehicle visible in the photographic evidence is operable. In response to a question from the Hearing Examiner if any photographic evidence depicts the violation for inoperable or unregistered trailers in CE 11-068-2, Inspector Frank testified they are visible in DPZ Exhibit 4A and 4M.

7. With respect to the evidence supporting citation CE 11-068-5, which she issued for violation of SLDR 16.115, Inspector Frank gave evidence on cross-examination that the floodplain begins to the right of the John Deere bobcat visible in DPZ Exhibit 6A. She did not know how far the floodplain extended from that point to the left hand side of the photograph, based on the photographic images. She could not testify with a one hundred percent certainty that the bobcat is located within the floodplain. She did not know the distance of the bobcat from the stream because she did not take measurements. Referring to DPZ Exhibit 6B, Inspector Frank opined that the industrial mulcher is located within the floodplain. She did not measure the distance from the stream or stream bank. With respect to Exhibit 6C, Inspector Frank did not know how far the tractor was from the streambank, but in her opinion, it lies within the streambank. She did not locate the boundary of the floodplain using field measurements to locate the floodplain on the ground, but rather relied on the plat introduced as DPZ Exhibit 1.

8. It was Inspector Frank's further testimony on cross-examination that Respondent could be in compliance with the HCZR and the SLDR regulations with if he had a working farm or an operating tree farm, since the heavy equipment would be farm equipment.

9. On redirect, Inspector Frank testified Preservation Parcel A is about 11.6 acres. She

called Mr. Erskine to obtain permission to enter the Property but did not receive permission to do so. At the last hearing, Respondent told her there were "No Trespass" signs posted on the Property and he did not want her to go on his property. She has inspected the Property four times and has not seen any items in the stream. With respect to the Howard County Code regulations setbacks for streambanks, Inspector Frank testified that it is typically about 75 feet. For the items she did not measure, she estimated that it was about 25 feet from the stream. She regularly takes measurements in her cases. About 70 percent involve taking measurements and this practice gives her a good sense of distance. Referring to DZ Exhibit 7A, Inspector Frank testified the stream is visible. Also visible are drums well within the streambank. Referring to DPZ Exhibit 7D, Inspector Frank testified to it depicting the trailer. Over the four inspections, she observed that no items had been removed or cleaned up, with the exception of the blue pickup. In reference to DPZ Exhibit 4L, Inspector Frank stated it was a picture of trash in the stream and in the background, building materials, vehicles, and equipment. The red truck is about 60 feet from the stream and the other items are much closer.

10. Continuing her testimony on redirect, Inspector Frank gave evidence that DPZ Exhibit 4C depicts another red truck. The stream is about eight-ten feet away from the grill visible in the photograph. DPZ Exhibit 2K looks like an inoperable disk, which tills fields on a working farm, but the Property is not a working farm. DPZ Exhibit 2M shows a blue log splitter, which would be farm equipment, but based on her inspection it was not operable. According to Inspector Frank, equipment on a working farm must be used; old equipment graveyards are not permitted. To be registered, a vehicle must have tags displayed and an inspector may require

the owner to move the vehicle to demonstrate it is operable. Of the dozen or so vehicles on the Property, only one, a blue pickup truck, is operable because it had been moved. She never observed a person, witnessed no activity, and no one operating any equipment on the Property.

11. Respondent testified to residing on the Property. He is a tree farmer engaged in the stewardship and maintenance of trees on the Property and planted one hundred dogwoods south of the bridge for resale. These trees were planted to the north of the access driveway. He also planted 5,000 blue spruce and pine trees a number of years ago near his gate on Frederick Road. On cross-examination, Respondent testified to planting the spruce trees about 15 years ago. He has been a tree farmer since 1965. He has also allowed the tree farm operators on the adjoining property to haul out Christmas trees from his driveway. Respondent gave further evidence to being educated in forest management and habitat protection. He derives income from the sale of firewood and declared it on past income taxes. As a tree farmer, he does not harvest or plant trees every year. He uses equipment to harvest and plant the trees, including a wood chipper and splitter (for firewood), and a loader. Examining DPZ Exhibit 6A, he explained the skid loader is operable and used for lifting heavy things, like firewood. The chipper on DPZ Exhibit 6B is used during storms to cut limbs. The stake body truck operates, and is used to bring in limbs and chip them. DPZ Exhibit 6C is an operable John Deere with a bush hog for mowing. DPZ Exhibit 6F depicts a vehicle that needs a battery. The other truck is registered but does not show its tags. He may have to do some work on it to make it road worthy. He intends to use it for forestry management. The trucks in DPZ 6I are horse vans and do not work now but

should start with batteries. The vehicle in DPZ Exhibit 6J is a tow truck for moving disabled vehicles where he can work on them. It should be operable with a battery and some ether.

12. Respondent would like to get rid of the tires and would like DPZ to arrange for him to take them to the dump. He intends to get rid of the construction and debris by building a new barn and using the lumber for scrap and his wood-burning heaters.

13. On cross-examination of Respondent, DPZ introduced into evidence DPZ Exhibit 8, a 2007 aerial photograph of 15160 Bushy Park Road (Preservation Parcel A) and adjoining Parcel 15101 Frederick Road, which Respondent also owns. Respondent pointed to the area on DPZ Exhibit 9, a 2009 aerial photograph which also depicts area property lines and where he planted the spruce trees, which is the dark green forested area in the north section of 15101 Frederick Road.²

14. DPZ rebuttal witness Timothy Healey testified that the adjoining property is his parent's tree farm, where he works. The tree farm operation is 20-30 years old. He has never observed a tree farm operation on Respondent's property at 11505 Frederick Road, where Respondent indicated he grows spruce trees for sale, as indicated on DPZ Exhibit 9. He has never observed equipment or trees coming in or out of Respondent's properties. There are no tree farm signs. He has no knowledge of the dogwood trees on the Bushy Park property, which may not be visible owing to a drop-off in the area of the stream. The Respondent may have sold firewood. He has heard equipment in use on Respondent's property.

² Respondent's property at 11505 Frederick Road is the subject of a separate code enforcement action, CE-08-006, issued on October 13, 2011.

15. Mr. Healey further testified that in 2009, the Healey tree farm had about 10,000 trees, and the operation is visible in the lower right hand corner of DPZ Exhibit 9. The lines visible on DPZ Exhibits 8 and 9 are rows of trees for the tree farm. In his opinion, a tree farm operation involves the sale of trees, not just growing them. In response to a Hearing Examiner question, it was Mr. Healey's testimony that a tree farm operation routinely plants trees in long, orderly lines.

Burden of Proof

Pursuant to HCC 16.1605(d), in an appeal of a citation issued under Section 16.1603 of Subtitle 16, Enforcement of The Howard County Subdivision and Land Development Regulations and the Zoning Regulations, the burden of proof is on the county to show, by a preponderance of the evidence, that the alleged violator has violated the laws or regulations in question. However, it is the alleged violator's burden to provide all affirmative defenses, including the defense of nonconforming use.

Conclusions

As a first matter, the Hearing Examiner concludes Respondent is not an active tree farm operator nor is he actively running a farm. DPZ Inspector Frank testified to the lack of activity on the Property. DPZ witness Timothy Healey, who for many years has worked on his family's adjoining tree farm and is familiar with the operations of tree farming, could not recall one

instance of any activity or indication of such an operation on Respondent's properties.³

Respondent's testimony that he is an active tree farmer is unconvincing.

Citation CE 11-068-1. The County has met its burden of proof that Respondent has violated HCZR Sections 104.C.7.b & 128.D.7, which pertains, respectively, to parking in the RC district and to motor vehicle storage in residential districts.⁴ Inspector Frank's testimony, as supported by DPZ Exhibits 6A, 6B, 6F, 6H, 6I, and 6J, provide convincing evidence that Respondent is continuing the off-street parking or storage of unregistered, inoperable,

³ In support of his claim to being a tree farmer, Respondent testified to planting trees on his adjoining property, 15101 Frederick Road.

⁴ HCZR Section 104.C.7.b provides as follows.

7. Parking:

- a. Off-street parking of no more than two commercial vehicles on lots of three or more acres and no more than one commercial vehicle on lots of less than three acres. Private off-street parking is restricted to vehicles used in connection with or in relation to a principal use permitted as a matter of right in the district.
- b. Off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles shall not be permitted, except as provided by Section 128.D.7.

Section 128.D.7 prohibits motor vehicle storage in residential districts, except that:

- a. Parking or storage of such vehicles shall be permitted provided the vehicles are within a completely enclosed building or are not visible from ground level from any adjacent properties or public street rights-of-way. An unregistered, inoperable, wrecked,
- b. dismantled, or destroyed motor vehicle placed under a tarp or car cover shall not be considered to be screened.
- c. In addition, one such vehicle per calendar year may be parked or stored outside, in a location visible from adjacent properties or streets, provided the vehicle is:
 - (1) Recently purchased, pending inspection, for up to 180 days; or
 - (2) Being advertised for sale, for up to 180 days; or
 - (3) Being actively repaired or restored for up to 180 days, or for an extension of this period approved in writing by the Department of Planning and Zoning after an application is received showing good cause; or
 - (4) Being held pending settlement of insurance, estate or similar claims.
- d. All such vehicles must be owned by a resident of the property and used in connection with or in relation to a principal use permitted as a matter of right in the district.
- e. Vehicles made nonconforming by Zoning Board Case No. 954R shall be removed within six months of August 22, 1994. Historic vehicles as defined under Section 13-936 of the Transportation Article of the Annotated Code of Maryland and made nonconforming by HCZRA-5, shall be removed by November 6, 1996.
- f. Vehicles designed or utilized for farming operations, as defined in Section 13-935 of the Transportation Article of the Annotated Code of Maryland as amended, shall be exempt from these provisions.

wrecked, dismantled or destroyed motor vehicles. She observed motor vehicles without tags, which is proof of registration, and the photographic evidence clearly demonstrates the presence of wrecked vehicles and vehicles that have been long unmoved, as indicated by the long grass around the vehicles, and in some instances, by the grass and weeds overrunning the materials around or on several vehicles. By Respondent's own testimony, batteries and even ether would have to be installed to make some of the vehicles operable. Moreover, to be in violation of HCZR Section 104.C.7.b, DPZ need prove by a preponderance of evidence the presence of only one of the unallowable uses.

Citation CE 11-068-2. The Hearing Examiner is dismissing CE 11-068-2 because DPZ was unable to determine the continuance of the violation when Inspector Frank reinspected the Property on September 21, 2011. The record indicates the zoning inspector did not enter the Property or go as far into the Property as she had during previous inspections because Respondent told her he did not want her on his property.⁵ The allegedly offending trailers were not visible, apparently, from where the inspector photographed the Property on September 21, 2011.

The Hearing Examiner appreciates the challenge of verifying a continuing violation when there is no consensus between a property owner and an inspector about the geographic scope of the administrative inspection of private property. Nonetheless, in the Hearing Examiner's opinion, verification of the continued violation shortly before a code enforcement proceeding is

⁵ HCC Sec. 16.1602 imposes a duty to investigate an alleged violation to determine whether a violation exists or has occurred, subject to Fourth Amendment rights. Howard County is one of two private sewerage easement holders of Preservation Parcel A, the subject property.

a necessary evidentiary predicate if the examiner is to impose a civil penalty on a violator and/or order the violator to abate the violation. Not to require routine confirmation of an alleged violation through a recent reinspection might potentially invest code enforcement inspectors with broad discretion in what they are required to prove in an administrative code enforcement proceeding. Administrative due process, as discussed below in reference to Citation CE 11-068-5, requires consistent inspection procedure in every code enforcement action.

Citation CE 11-068-3. The County has met its burden of proof that Respondent has violated HCZR Sections 101.0 & 104.B&C. HCZR Section 101.0 prohibits all uses unless specifically enumerated as a use permitted as a matter of right or as an accessory use in the various districts as provided by the regulations. HCZR Section 104.B sets forth the uses permitted as a matter of right in the RC district and HCZR Section 104.C sets forth the permitted accessory uses in the district. Neither regulation permits an RC zoned property to be used to for the storage of vehicle parts, accessories and tires. Based on Inspector Frank's testimony and the photographic evidence presented, the Hearing Examiner concludes Respondent is in violation of 101.0 & 104.B&C by using the Property to store vehicle parts, accessories and tires.

Citation No. CE 11-068-4. The County has met its burden of proof that Respondent has violated HCZR Sections 101.0 & 104.B&C. Based on Inspector Frank's testimony and the photographic evidence presented, the Hearing Examiner concludes Respondent is in violation of 101.0 & 104.B&C by using the Property to store heavy construction equipment on RC zoned property. Neither regulation permits an RC zoned property to be used for the storage of heavy

construction equipment. Although Respondent testified to using the equipment in part for his firewood business operation, the evidence on this alleged use is insufficient to support an opposite conclusion.⁶ Nor is the Hearing Examiner persuaded Respondent makes active use of this equipment for routine maintenance of 15160 Bushy Park Road.

Citation No. CE 11-068-5. DPZ issued this citation describing the violation as the continued "dumping and disposing of debris, building materials, trailers, fuel drums, farm equipment, heavy construction equipment, automobiles, automobile parts, accessories and tires *within a stream bank and or flood plain.*" (Emphasis added.) DPZ charged Respondent with violating SLDR 16.115.

The Hearing Examiner is dismissing Citation CE 11-068-5 for two reasons. First, DPZ relies on the wrong provision of the SLDR for the alleged violation of dumping and disposing various objects within a streambank. The subject of SLDR 16.115 is floodplain preservation. Although Inspector Frank's testimony sought to locate the alleged offenses by reference to a 75-foot streambank setback, no such setback appears in SLDR 16.115. The protection of wetlands, streams, and steep slopes, as well as streambanks, is addressed in SLDR 16.116.

The Hearing Examiner is also dismissing Citation CE 11-068-5 because DPZ failed to establish the extent of the floodplain on the Property, with the consequence that the location of the items alleged to offend SLDR Section 16.115 is insufficiently demonstrated. Although the citation broadly references the entirety of SLDR Section 16.115, DPZ presumably issued it in

⁶ This Order does not address whether the HCZR permits Respondent's alleged firewood sales operation on RC zoned property.

part for a violation of SLDR Section 16.115.(c)(1), which prohibits building materials and other debris from being stored or discarded in floodplains. However, unlike stream buffers, which generally are fixed distances depending on the type of stream, the extent of a floodplain will vary, hence the changing course of the floodplain depicted on DPZ Exhibit 1. As was made manifest during Petitioner's cross-examination of Inspector Frank, DPZ did not know the extent of the floodplain limits on Respondent's Property, and thus could not adequately fix the location of the allegedly offending objects within the floodplain.

The inspector's professional familiarity with gauging distances notwithstanding, administrative due process requires code enforcement inspection to be a standardized operating procedure for the investigation, notification and compliance of the applicable codes, ordinances, and regulations. Where a citation alleges a violation within a floodplain delineated on a final plat, proximity to a stream is an insufficient measure. Due process requires code enforcement inspectors always to make field measurements using the appropriate tools when alleging any encroachment.

ORDER

It is therefore this 13th day of October 2011, by the Howard County Board of Appeals Hearing Examiner, **ORDERED** that:

Respondent Frederick W. Raulin is the person responsible for 15160 Bushy Park Road.

It is **FURTHER ORDERED** that Code Enforcement Citation CE 11-068-2 is **DISMISSED**.

It is **FURTHER ORDERED** that Code Enforcement Citation CE 11-068-5 is **DISMISSED**.

It is **FURTHER ORDERED** that Respondent Frederick W. Raulin is to bring 15160 Bushy Park Road into compliance with the Howard County Zoning Regulations within thirty calendar days of the date of this order.

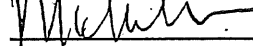
It is **FURTHER ORDERED** that a civil penalty be imposed in the amount of two thousand dollars each for citations CE 11-068-1, CE 11-068-3, and CE 11-068-4, for a total penalty of six thousand dollars, if the Property is not in full compliance within thirty calendar days of the date of this order.

It is **FURTHER ORDERED** that the civil penalties/fines shall be paid thirty calendar days from the date of this order. A failure to pay the fine by the due date may result in a lien being placed on the property for the fine amount, per Section 16.1611(a)(1) of the Code.

It is **FURTHER ORDERED** that the County inspect the property to determine whether the violations have been corrected.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Michele L. LeFaivre

NOTICE TO RESPONDENTS: The Respondents are advised that pursuant to Section 16.1608.(c) of the Howard County Code, all fines are due and payable by the date indicated in the citation; and are payable to the Director of Finance of Howard County. Pursuant to Section 16.1609, a final order issued by the Hearing Examiner may be appealed within 30 calendar days of the date of this order by the alleged violator to the Board of Appeals in accordance with Section 16.304 of this title. If an alleged violator appeals the final order of the hearing examiner, the alleged violator may request the stay of any civil fine imposed by a final order pending the final resolution of an appeal. Pursuant to Section 16.1610, if a final order of the Hearing Examiner includes a civil fine and the order is appealed to the Board of Appeals, the alleged violator shall post security in the amount of the civil fine to the director in a form acceptable to the Director of Finance. After all appeals are exhausted, if a civil fine is reduced or vacated, the security shall be reduced proportionately; any surplus shall be returned to the alleged violator; and any balance shall be used to satisfy the civil fine; or is not reduced or vacated, the security shall satisfy the fine assessed and accrue to the benefit of the county. Pursuant to Section 16.1611, if a final order issued by a Hearing Examiner assesses a civil fine and the alleged violator does not pay the fine within the time required by the order, the Hearing Examiner shall certify to the Director of Finance the amount owed that shall become a lien on the property on which the violation existed; and be collected in the manner provided for the collection of real estate taxes.

A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard on the record by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.