

IN THE MATTER OF : BEFORE THE
MANGIONE ENTERPRISES OF TURF VALLEY : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
 : HEARING EXAMINER
 : BA Case No. 13-006S

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DECISION AND ORDER

On January 27, 2014, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Mangione Enterprises of Turf Valley for five Sign Code variances (four freestanding commercial directional signs and one freestanding sign with a digital display) located in a PGCC (Planned Golf Course Community) Zoning District, filed pursuant to Section 3.513, Title 3, of the Howard County Code (the "Sign Code").

Petitioner certified to compliance with the notice of advertising and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Sang Oh, Esquire, represented the Petitioner. Louis Mangione testified on behalf of the Petitioner. Ron Luzon, Charles Hill, and Phil Philips testified in opposition to the petition.

Petitioner introduced into evidence the exhibits as follows.

1. Map depicting location of proposed signs A-D
2. Depiction of Sign A
3. Sign A location superimposed on photograph of location
4. Engineered drawing depicting location of Sign A
5. Depiction of Sign B
6. Sign B location superimposed on photograph of location
7. Engineered drawing depicting location of Sign B

8. Depiction of Sign C superimposed on photograph of location
9. Sign C location
10. Photograph of speed limit sign
11. depiction of Sign D
12. Photograph of proposed location of Sign D
13. Email to Brenda Saucedo, DILP explaining Signs B, C AND D are not in ROW
14. Email correspondence about sight distance
15. Depiction of Sign E superimposed on photograph of area
16. Location of Sign E
17. Engineered Location of Sign E by monument
18. Photograph of location with Sign E Superimposed
19. Turf Valley map of Mangione owned properties in the future highlights

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located east of Marriottsville Road, north of US 40 and south of I-70. It is referenced as Tax Map 16, Block 11. The addresses of the five proposed signs are:

Sign A: 11135 Resort Road
Sign B: 11049 Resort Road
Sign C: 11001 Resort Road
Sign D: 2794 Mount Villa Parkway
Sign E: 11145 Resort Road

2. Property Description. The Property is the site of the 800-acre Turf Valley planned golf course community, which comprises multiple developed and planned residential areas, two golf courses, a pro shop, clubhouse, hotel, conference center, offices, a town square with a grocery store, restaurants and various services.

3. The Sign Variance Requests

Sign A:

Location: Open Space Lot 4, west of the West Entrance to Towne Square, south side of Resort Road

Required Setback: 60' Requested Setback: 1.0'

Uniqueness/Physical Conditions (Variance Standard No. 1): South of ROW grade falls away at an 8% slope until 15 feet from the ROW, at which point it falls at a 50% slope.

Other factors in support of variance: If sign were located at 60', it would need to be 32' to be visible. Guardrail would block conforming sign. Bottom of sign is 3' above grade to mitigate effect of guardrail.

Area (s.f.): 60

Dimensions: 5' (w) x 12' (h)

Top of Sign: 15 feet above grade

Wording: Signs A-D have the Turf Valley logo at the sign top with the words "TURF VALLEY" along with "Hotel", "Conference Center", "Golf/Tennis/Pool", "Alexandra's American fusion" and "Spa" listed below with directional arrows. At the bottom of Sign A are the words "Harris Teeter" and two directional arrows.

Sign: B

Location: Parcel J2, north of Towne Square Parkway, south side of Resort Road

Required Setback: 50' Requested Setback: 4.0' and 20'

Other factors in support of variance: purpose is to direct visitors to Hotel and Conference Center along Resort Road rather than turning right onto Town Square Parkway. Increase in setback would increase sign height and reduce ability to read the sign

Area (s.f.): 50

Dimensions: 5' (w) x 10' (h)

Top of Sign: 12 feet above grade

Wording: Signs A-D have the Turf Valley logo at the sign top with the words "TURF VALLEY" along with "Hotel", "Conference Center", "Golf/Tennis/Pool", "Alexandra's American fusion" and "Spa" listed below with directional arrows

Sign: C

Location: Open Space Lot 68, south side of Resort Road, west of Mount Villa Parkway

Required Setback: 50' Requested Setback: 4.0' and 20'

Other factors in support of variance: purpose is to direct visitors to Hotel Conference Center to turn right at Mount Villa Parkway rather than continuing on Resort Road into the planned residential communities

Area (s.f.): 50

Dimensions: 5' (w) x 10' (h)

Top of Sign: 12 feet above grade

Wording: All signs have the Turf Valley logo at the sign top with the words "TURF VALLEY" along with "Hotel", "Conference Center", "Golf/Tennis/Pool", "Alexandra's American fusion" and "Spa" listed below with directional arrows

Sign: D

Location: Parcel 8, east side of Mount Villa Parkway, north side of Golf Club Road (private road)

Required Setback: 50' Requested Setback: 6.0'

Other factors in support of variance: Sign D directs visitors to the hotel and conference center to turn left rather than continue on Mount Villa Parkway to the planned residential communities

Area (s.f.): 50

Dimensions: 5' (w) x 10' (h)

Top of Sign: 12 feet above grade

Wording: Sign A-D have the Turf Valley logo at the sign top with the words "TURF VALLEY" along with "Hotel", "Conference Center", "Golf/Tennis/Pool", "Alexandra's American fusion" and "Spa" listed below with directional arrows

Sign: E

Location: Parcel K, 1-foot setback from Resort Road ROW, 240 feet from Marriottsville Road

Required Setback: 70' Requested Setback: 1.0'

Other factors in support of variance: There is a 20-foot wide public utility easement south of Resort Road and the Department of Public Works does not allow sign in public utility easements. The sign cannot be located further west because the distance between the public easement and road ROW decreases. It cannot be located further south beyond the utility easement because the grade falls sharply into the environmental feature

Area (s.f.): 70

Dimensions: 10' (w) x 6' and 10' (w) x 1' (H)

Top of Sign: 9.6' feet above grade

Wording: Turf Valley logo at top of sign with the words "Turf Valley" below, digital screen, words "HOTEL/CONFERENCE CENTER/GOLF/TENNIS/POOL", lower section has the words "the SPA of Turf Valley" and "Alexandra's American fusion". The sign has a brick face and an acrylic and digital display. The digital portion of the sign will alternate between Harris Tweeter at Turf Valley and the current event at the Hotel Conference Center. Current events include wedding announcements, conference and similar functions.

4. According to the petition, Petitioner is seeking variance relief for all five signs under

Sign Code Section 3.501(c).c, characterizing Signs A-D as "freestanding directional signs" and Sign

E as a “commercial freestanding sign.”¹ Section 3.501(c) regulates in pertinent part signs in commercial districts. Subsection (2).c, in turn, regulates the locations of freestanding commercial signs. In the Department of Inspection, Licenses and Permits (DILP) Technical Staff Report (TSR), DILP tacitly disagrees with this characterization of Signs A-D, and identifies them as “commercial directional signs”, which are regulated under Section 3.501(c)(8).² Regarding Sign E, DILP considers it a “permanent identification sign” subject to Sign Code Sections 3.502(e)(1) and 3.508(b).³

¹ The petition references Section “501(c)(2)(c).” However, the relevant code section is 501(c)(2).c, assuming the petition is seeking relief from the code’s commercial freestanding sign requirements.

Section 501(c)(2).c (in pertinent part). Where a building does not cover the full area of the property, business signs may be freestanding or ground-supported and may be located in the front yard. The height of the sign may not exceed one foot for each two feet the sign is set back from the right-of-way and shall not exceed 26 feet from the grade level to the top of the sign. Freestanding signs shall be permitted only where there is a minimum of 40 lineal feet of lot frontage. The maximum allowable area for a freestanding sign shall be one square foot for each one foot the sign is set back from the road right-of-way. The largest single face of a freestanding sign shall be considered for the purpose of computing allowable area under this section. No part of the sign shall extend beyond a property line or right-of-way line. Signs satisfying requirements for gas price posting are permitted up to an area of 32 square feet per face. Such signs may be affixed to the main freestanding sign and will not be assessed against the allowable area for the facility nor will they be considered for purposes of determining setback in relation to sign area.

² Section 3.501(c)(8) (in pertinent part). Commercial directional signs may be permitted by a variance by the Board of Appeals subject to a finding by the Board that the directional sign or signs are necessary for the public convenience and are consistent with the intent and purposes of this subtitle. Such signs shall be located only at road intersections and shall be subject to the approval of the Director of Inspections, Licenses and Permits of Howard County, based on criteria that he shall establish for the design and location of such signs. All directional signs at a single intersection shall be consolidated in a single frame or, if necessary, in several such frames. The maximum allowable area of any such consolidated sign shall be 12 square feet, and no more than four such signs shall be permitted for any single business. The content of such signs shall be limited to the name of the business, the principal product or services offered, and directional information.

³ DILP identifies the sections violated by Sign E as “3.502(3)(1)” and “3.508(b).” The Hearing Examiner presumes DILP intended to reference Section 3.502(e)(1). Section 3.502 addresses signs permitted in all districts. Subsection 3.502(e)(1) regulates Permanent Identification Signs and provides in pertinent part as follows. Signs of a permanent nature setting forth the names of religious facilities, communities, subdivisions, apartments, schools, public/quasi-

5. Concerning Signs A-D, Mr. Mangione testified they are intended to direct nonlocal visitors to the commercial and recreational facilities of Turf Valley through Resort Road and to Mount Villa Parkway, as well as to alleviate residents' concerns about persons driving into their neighborhoods. Petitioner's Exhibits 1-2 depict the proposed location and design of Signs A-D and their appearance on the landscape when erected. The signs are also designed to be aesthetically pleasing in keeping with the Turf Valley master plan.

6. Mr. Mangione testified to Sign A being the minimum necessary to direct motorists safely to the locations denoted on each sign. A conforming sign at 60' would sit below grade and not be visible to motorists or if located at the proposed location would be so small as to be ineffective. The sign is elevated three feet off ground because of guardrail. Based on his experience and the sign consultant's recommendations, it is the minimum needed for safe viewing.

7. With respect to Sign B, Mr. Mangione explained the area to the south has an upward hill just beyond the proposed location. A conforming sign would sit on top of the hill making it

public institutions and neighborhoods shall be permitted and are exempt from the setback requirements established in subsection 3.501(c)(2)c. Illumination shall be in accordance with restrictions set forth in section 3.508. Except as provided in paragraph (2), of this subsection, such signs shall not exceed 32 square feet in area or six feet in height. Signs that are in existence on November 2, 1981, identifying a subdivision, apartment, condominium, village or neighborhood, which have been inventoried by the Department of Inspections, Licenses and Permits by March 1, 1982, shall be permitted and shall be exempt from the provisions of subsection 3.505(a)(5) of this subtitle.

Section 3.508(b), in turn, bars signs with blinking, flashing or fluttering lights or other illuminating devices which have a changing light operated as to create an appearance or illusion of writing or printing. A variance may be granted by the Board of Appeals for movement showing the date, the time and the temperature exclusively.

making it difficult for motorists to view or would be too small to be effective, as is depicted in Petitioner Exhibit 7.

8. Concerning Sign C, Mr. Mangione noted that the numbers in the speed limit sign (Exhibit 10) are larger than the sign wordage, which in his view means the sign is the minimum necessary. If Sign D were further away, it would not serve the intended purpose.

9. With respect to Sign E, Mr. Mangione testified to it being located at Marriotsville Road and Resort Road, but some 240 feet in from the edge of Marriotsville Road paving. Sign E would actually be closer to the light post seen on Exhibit 15. Exhibits 16 and 17 also depict its location. The purpose is to alert motorists to the services at Turf Valley. Resort Road is the new main entrance to Turf Valley, the older entrance being Turf Valley Road. Some 60 percent of visitors will come to turf Valley from Marriotsville Road and the new I-70 interchange.

10. Exhibit 19 depicts the original 800-acre Turf Valley site, which his family once owned before selling off land for housing and other uses. At some juncture, the Mangione family will own only the country club, hotel, resort and other areas depicted in yellow. These areas will have frontage on Golf Club Road and Marriotsville Road and there is no other signage proposed. Unlike shopping centers, Harris Teeter, the wine shop, and other uses do not have the typical pole sign/s associated with such uses. Sign E is the sole commercial sign for these uses and the sign is geared to nonlocals. If it were located in conformance with sign regulations, it would be located in wetlands. He believes the sign is a subtle as it can be in order not to have any adverse impact on residences nearby, which are about 400-500 feet to the closest residence. Concerning the digital

portion of the proposed sign, Mr. Mangione explained it is preferable to a manually changeable sign, which would involve someone parking on Resort Road to change the sign physically every 24 hours. The sign will not be animated and will change once a day. It is for the convenience of businesses as well as for safety.

11. On cross-examination, Mr. Mangione noted Sign E is skewed toward motorists on Resort Road, so it is unlikely motorists traveling along Marriotsville would see it. This is the only commercial signage on Marriotsville Road. When cross-examined about the possibility of increasing conforming signage within the development, Mr. Mangione responded by emphasizing the import of calling out the main services and how they may be reached, which means that the signage is the minimum necessary. Mr. Mangione stated the size and design is based on the recommendations of the sign consultants and company experience. Complying signs would not keep nonlocals (visitors) out of the neighborhoods. Regarding Sign A, Mr. Luzon questioned Mr. Mangione about the necessity for the 15' high sign based on the height of the three-foot guardrail. Mr. Mangione testified the closer a motorist got to the sign, the harder it would be to read.

12. Phil Phipps expressed concerned for safety, believing motorists stopping to read the signs would make travel unsafe on the roads. He also believed the quantity of signs is unnecessary.

13. In his testimony in chief, Mr. Hill testified to being concerned about the dangerous intersection at Marriotsville and Albeth Road (on the west side of Marriotsville Road) owing to

the present configuration of Marriotsville Road, where the shoulder is now a driving lane. People driving south on Marriotsville Road still tend to stay in the old lane, (which apparently was the old turn lane). He is concerned distractions like an electronic sign on the east side of Marriotsville Road will make driving even more dangerous.

14. Ron Luzon testified to being opposed to the directional signs because they should be designed to comply with the Sign Regulations and not need variances. The purpose of the Sign Code is to protect the health and safety of county residents. He believes smaller, conforming signs could meet the purpose of the directional signs. If the signs need to be as big as they are, they should be set back further from the road. Concerning Sign E, he testified it would have an adverse effect on the appropriate use or development of adjacent properties because of light pollution. He further opined that he would be able to see light from Sign E from more than 500 feet away at night. He believes Sign E will also cause light pollution onto his property if the current forest buffer is removed for development and that the digital portion of the sign might not be necessary. He is apprehensive about electronic signs and their effect on traffic safety. He also believes Sign E poses a safety hazard for motorists driving south on Marriotsville Road, which drops in grade just before Resort Road. At the intersection, motorists have a clear view of the monument tower and Sign E, which would draw their attention away from traffic. If someone is waiting to make a turn into Albeth Road, the left turn lane is right up against a travel lane and the sign will distract the motorist, who will tend to pull the steering wheel to the left. All five signs will cause dangerous traffic conditions.

15. On rebuttal, Mr. Mangione testified Sign E would be 70 s.f. in area and that the digital portion would only comprise 25 percent of the total sign area. It will sit 240 feet from the Marriotsville Road centerline.

CONCLUSIONS OF LAW

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Facts, the Hearing Examiner concludes as follows:

1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.

Sign A. The grade south of the ROW falls away at an 8% slope until 15 feet from the ROW, at which point it falls at a 50% slope. Motorists would not be able to view a conforming sign.

Sign B: Beyond the proposed location is an upward hill. Motorists would have difficulty viewing a conforming sign in this location.

Sign C. Exhibit 19 depicts a stormwater management pond in the area of a conforming sign.

Sign D. Exhibit D depicts a grade change in the area of a conforming sign.

Sign E. A conforming sign could not be located further west owing to a public utility easement, where signs are prohibited. Beyond the utility easement, the grade falls sharply.

These conditions lead to practical difficulties and unnecessary hardships in complying strictly with the provisions of this subtitle. The petition complies with Section 3.513(b)(1).

2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.

There is credible evidence that a guardrail would block a motorists' view of a conforming sign at the proposed location of Sign A. The petition complies with Section 3.513(b)(2).⁴

3. Or, that there are historical, architectural, or aesthetic characteristics which shall be considered.

There are no historical or architectural characteristics to be considered in the evaluation of the five requested variances. The four directional signs (A-D) are designed to be aesthetically pleasing in keeping with the Turf Valley master plan. The petition complies with Section 3.513(b)(2).

4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

Signs A-D analysis. There is no evidence of the requested variances having an adverse effect on the use and development of adjacent properties. Rather, the evidence indicates the four sign variances are intended to direct visitors (nonlocals) away from residential areas. Although there was general testimony that the location of these signs could potentially cause accidents, this evidence is speculative.

Sign E. dangerous traffic condition analysis. Messrs. Luzon, Hill, and Phipps oppose this sign on the ground that it will pose a safety hazard for motorists driving south on Marriotsville

⁴ Sections 3.513(b) and (c) are alternative standards for proving practical difficulty and unnecessary hardship.

near the intersection with Albeth Road by drawing attention away from the new traffic pattern (lane changes) and toward the sign.

The Hearing Examiner acknowledges these traffic safety concerns, but finds nothing in the evidentiary record to support the claim that the digital portion of Sign E itself would result in dangerous traffic conditions. It will be sited just past the monument tower, about 240 feet in from the edge of Marriotsville Road and one foot from the Resort Road Row. The digital portion comprises only 25 percent of the total sign face area. Certainly, the residents' concerns about current traffic safety warrants attention, but absent demonstrable evidence that a small digital sign will in result in a dangerous traffic condition, the Hearing Examiner may not deny the sign.

The Hearing Examiner also notes here the testifying residents' general concern about digital signs and traffic safety. Sign Code Section 3.514(e) defines a "digital display" as a device or technology for the electronic display of information identifying or advertising a use, product, business or service including text, images, video, animation or motion of images, and interactivity and includes technologies such as LED, LCD, plasma displays, projected images and other emerging display types.

In this case, the digital display portion of Sign E involves electronically changeable text copy.⁵ To ensure such digital displays do not result in dangerous traffic conditions, Section

⁵ An analysis of sign code ordinances regulating digital displays and electronic changeable text copy is addressed in BOA Case No. 670D, decided January 14, 2010. This case concerned DILP's denial of permit application because the proposed modification violated the Sign Code's prohibition against blinking, flashing and changing lights.

3.508(b) in relevant part bars such signs from having blinking, flashing or fluttering lights or other illuminating devices with a changing light operated as to create an appearance or illusion of writing or printing. DILP enforces this ban through internal policy, which allows electronically changeable text copy to change once every 24 hours and requires permittees to sign an affidavit that the electronic/digital display sign will not change text more than once every 24 hours. The Technical Staff Report (TSR) references this policy, explaining that more frequent text changing could be distracting to drivers.

Sign E. Adverse affects on the appropriate use or development of adjacent properties analysis. Mr. Luzon testified the digital portion would cause light pollution onto his property, which sits some 500 feet distant and is currently buffered by a forest. The evidence indicates the digital portion occupies 25% of the 70-s.f. sign, or 17.5 s.f. Although Mr. Luzon may be able to see the sign from this distance, it is unclear to the Hearing Examiner that such a “visual intrusion” would have an adverse effect on the use of his property such that it warrants an absolute denial of the requested sign.

The Hearing Examiner further observes here the existence of two signs with electronically changeable text copy on Marriottsville Road itself. In BOA Case No. 07-008S, the Hearing Examiner approved a variance for a bank sign sited 7.0 feet from the ROW on the southeast side of Marriottsville Road at its intersection with Warwick Way. Further north, at 1525 Marriottsville Road (the Bon Secours Spiritual Center), is a freestanding sign with an electronic message display bottom section located 10 feet from the Marriottsville Road right-of-way (ROW) and approved in BOA Case No. 11-005S.

Nonetheless, during the proceeding, the Hearing Examiner considered the general merit of approving Sign E subject to the condition that it be turned off at night, explaining her practice of imposing this condition where signs with electronic copy are located near residential areas and, more generally, to reduce light pollution along county roads. In a colloquy between Petitioner's counsel and the Hearing Examiner, counsel noted that in the instant case, the sign is needed to reach late night travelers to the Hotel Conference Center.⁶

The bottom portion of the sign face, however, already directs visitors to the Hotel/Conference Center Use. As stated in the sign variance petition, the digital display will alternate between Harris Tweeter at Turf Valley and the current event at the Hotel Conference Center, or between two commercial speech messages. Having considered the matter, the Hearing Examiner concludes Petitioner's interest in commercial speech for the two uses would not be curtailed impermissibly if the digital display is dimmed between sunset and 11:00 p.m. and turned off between 11:00 p.m. and 6:00 a.m., using the same programming that varies the changeable text. This condition is also intended as a reasonable resolution to the dispute between DILP and Petitioner as to whether Sign E is a freestanding "permanent identification sign" (DILP) or a "commercial identification sign" (Petitioner). Subject to this condition, the Hearing Examiner concludes Sign E will not have adverse effects on the appropriate use or development of adjacent properties.

⁶ The Hearing Examiner recalls viewing information about Harris Teeter being open 24 hours during her site visit, but is unsure where she observed these hours of operation.

5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.

Signs A-D. Based on the evidentiary record, the Hearing Examiner concludes Signs A-D are the minimum necessary to afford relief. The Hearing Examiner here takes notice of DILP code enforcement officer Ed Marquardt's observation in his January 27, 2014 email to Mr. Mangione that he "like[s] these larger directional signs you have proposed because they are simple and easy to read." Exhibit 14. The Hearing Examiner reads these comments as supportive of the variances without substantial impairment of the intent, purpose and integrity of the subtitle.

The Hearing Examiner reaches the same conclusion with respect to Sign E, as conditioned. The 70-s.f. sign to be set back 1.0' from the Resort Road ROW is a reasonable size, consistent with and even smaller than other such signs approved by this Hearing Examiner under more challenging physical conditions. Moreover, the sign is small considering it is identifying seven uses (including alternating Harris Teeter and Conference uses).

6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

Petitioner has not created the practical difficulties or hardships, in compliance with Section 3.513(b)(6).

ORDER

Based upon the foregoing, it is this **20th day of February 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Mangione Enterprises of Turf Valley for five Sign Code variances (four freestanding commercial directional signs and one freestanding sign with a digital display) located in a PGCC (Planned Golf Course Community) Zoning District, is **APPROVED**.

Provided, however, that:

1. Petitioner shall sign the DILP affidavit agreeing that the electronic/digital display on Sign E shall not change text more than once every 24 hours.
2. Petitioner shall dim the Sign E digital display between sunset and 11:00 p.m. and turn it off between 11:00 p.m. and 6:00 a.m., using the same programming that varies the changeable text.
3. Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Michele L. LeFaivre

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar 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 *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.