

shall have the right to testify either orally or in writing, subject to the right of the Chairman to limit repetitious testimony and to exclude irrelevant testimony.

(I) The Committee shall make a decision based upon a written finding of fact, which shall approve the application, approve the application with conditions, deny the application, or defer consideration of the application until a later meeting of the Committee. If the application is approved or approved with conditions, the applicant shall be issued a certificate of appropriateness. Any application which fails to obtain at least three votes or the votes of a majority of the members present, whichever is greater, for approval or conditional approval shall be deemed to be denied.

(J) The staff and the Committee shall, in their decision making capacities, each make a written finding of fact based upon the information presented which supports a written conclusion that the application demonstrates or fails to demonstrate that the proposed exterior alteration is in compliance with the guidelines.

(K) Any applicant, whose application is denied by the staff or a committee, and any person or entity claiming to be injured or aggrieved by any decision made by a Committee, may appeal the decision to the Commission. The appeal shall be in writing and shall fully state the reasons why the appeal is sought. An appeal shall be filed within 30 days of the date of the decision. Upon the receipt by the staff of a timely appeal, the staff shall schedule a meeting of the Commission to consider the appeal. Notice of the meeting shall be mailed to the applicant, the property owner, the appellant, and other parties of record, by first class mail, at least seven days prior to the date of the meeting. At the meeting to consider the appeal, the Commission shall review the application and the record of the prior proceedings and, at the discretion of the Chairman, may take additional testimony from the applicant, the property owner, appellant, or other interested parties for the purpose of supplementing the existing record or for the introduction of new information. Upon review of the record and any supplemental or new information presented at the meeting, the Commission shall make a written determination that the decision shall be upheld or overturned. A decision of the staff or the Committee shall be overturned by the Commission only upon the written finding that the staff or Committee was clearly erroneous as to a material finding of fact related to whether the proposed exterior alteration complied with the guidelines. When the Commission overturns a denial of an application, it shall approve the application, or approve the application with conditions. Any member of the Commission who voted on the application when it was considered by the Committee shall not vote on the question of whether the decision of the Committee shall be upheld or overturned.

(L) An applicant whose application for demolition or new construction has been denied by the Committee, may request an economic hardship exemption from compliance with one or more of the guidelines which constituted the basis of the denial of the application pursuant to this paragraph. The request for the exemption shall be in writing and shall be filed with the Commission within ten days of the decision of the Committee. The Commission shall review the documentation and evidence presented before the Committee relevant to determining whether the applicant qualifies for an economic hardship exemption and such relevant evidence presented to it by the applicant or other interested parties. The Commission shall conduct a public hearing on the proposed hardship exemption. Notice of the hearing shall be sent to the applicant and other parties of record, by first class mail, at least seven days prior to the date of the hearing. At the hearing, the Commission shall receive information to supplement the record concerning whether the applicant qualifies for an economic hardship exemption from one or more of the guidelines applicable to the application. The Commission may require the applicant to submit findings from one or more persons determined by the Commission to have expertise in real estate and development who are knowledgeable in real estate economics in general and, more specifically in the economics of renovation, redevelopment and rehabilitation, to review the documentation submitted in accordance with § 32.257(B)(2) and this section. Within 60 days of the first regular Commission meeting after the applicant's request is filed, the Commission shall render a decision either granting or denying the applicant's request for an economic hardship exemption from compliance with one or more of the guidelines. The decision shall be based upon a written findings of fact. The applicant shall have the burden of showing that the application qualifies for an economic hardship exemption. The Commission shall grant an economic hardship exemption only if it finds that the applicant has demonstrated through a preponderance of the evidence that:

(1) With respect to an application involving a non-income producing structure or property, the property or structure cannot be put to any reasonable beneficial use according to the guidelines adopted by the Commission for economic hardship without the approval of the application.