

THE METROPOLITAN AREA PLANNING COUNCIL (MAPC) PROCESS FOR REVIEWING DECISIONS OF LOCAL HISTORIC DISTRICT COMMISSIONS

BACKGROUND

State law (M.G.L. Chapter 40C Section 12) provides that " a city or town may provide in its ordinance or by-law... for a review procedure whereby any person aggrieved by a determination of the commission may, **within 20 days** after the filing of the notice of such determination with the city or town clerk, file a written request with the commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the city or town is a member. The finding of the person or persons making such review shall be filed with the city or town clerk **within 45 days** after the request, and shall be binding on the applicant and the commission, unless a further appeal is sought in the superior court".

HOW THE PROCESS IS INITIATED

- 1) **Historic District Commission Decision** - An historic district commission makes a decision on a matter before it and files the decision as a Record of Action with the city or town clerk. The date of the decision is not the date that the Commission made the decision but the date on which the Commission filed the decision with the city or town clerk.
- 2) **Decision to Appeal** - If the applicant or an abuttor wishes to appeal the decision, they have 20 days after the filing of the official decision in which to file an appeal. The appeal must be filed with the Historic District Commission, **not with MAPC**. The local bylaw or ordinance must provide for a review procedure.
- 3) **MAPC is Notified of Appeal** - Once an appeal has been filed with the Historic Commission, MAPC will be notified either directly by the Historic District Commission, the party bringing the appeal or the city/town solicitor or historic preservation planner.
- 4) **MAPC sends appeals form to appellant** - MAPC will send the appellant a copy of the filing form.
- 5) **Filing Fee** - There is a \$1,500 filing fee for bringing an appeal. The fee must be in the form of a certified check or money order, and made payable to Metropolitan Area Planning Council and submitted with the application. No hearing will be scheduled until payment has been received.

SCHEDULING THE HEARING

- 1) **Deadline for Hearing** - The deadline for completing the process is 45 calendar days from the date the appeal was filed.
- 2) **Time to Hold Hearing** - MAPC schedules the hearing at least one week before the deadline to allow time to write up the decision, e-mail it to the panelists for review and comment and to prepare a final copy for filing with the city or town clerk.
- 3) **Getting an Extension** - Because of the number of people involved, it may be difficult to schedule the hearing. If this happens, MAPC will ask the person bringing the appeal to give an extension beyond the 45 days in order to accommodate people's schedules. Extensions are not dealt with in the statute but we have done this several times. MAPC will only extend the deadline if the request is in writing and all parties agree in writing.
- 4) **Where and When** - MAPC will request that someone from the Historic Commission (or other municipal contact) take responsibility for booking a room in the city/town hall. We generally ask that hearings be scheduled for 7:30 PM on a night that members of the Historic Commission can also attend.

THE MAPC REVIEW PANEL

MAPC convenes a panel of three people who all have a background and experience in historic preservation. They are doing this strictly as a volunteer effort and MAPC very much appreciates their donation of time and expertise.

PUBLIC NOTICE

- 1) **Legal Notice** - There are no legal requirements for advertising these hearings but the MAPC policy has been to publish a legal notice in a local newspaper at least one week before the hearing date.
- 2) **Post the Meeting at City/Town Hall** - MAPC requests that the Historic District Commission or other local contact take responsibility for posting the meeting on the city/town hall bulletin board.
- 3) **Abutters Notification** - Some historic district commissions will routinely send a notice of the appeal to abutters. MAPC recommends that the historic district commission notify abutters.

SITE VISIT

MAPC requests that the property owner allow access to the site for a site visit. The panel generally will meet at the site sometime after work and before the hearing (unless winter lighting conditions makes a site visit difficult in early evening). All parties should be invited to the site visit to answer or ask questions. The site visit generally lasts for about 45 minutes. The site visit covers only the outside of the property and is for the purposes of viewing the construction or physical features of the structure as well as visibility/jurisdictional issues and the historic district context for the property.

HEARING FORMAT

Welcome, introductions and the role of MAPC.

Introduce the MAPC panelists.

Review the “Standard of Review”. The main role of the MAPC panel is to review whether or not the local Historic District Commission acted in an arbitrary or capricious manner and whether they had jurisdiction over the matter before them. The panel does not substitute its judgement for that of the local Commission on substantive issues.

Presentation by the appellant. The appellant and/or his or her representatives (lawyers, architects, contractors, etc.) open the hearing with a presentation on facts relevant to the case.

Presentation by the Historic District Commission. The Historic District Commission is given an opportunity to respond to the appellant’s presentation and to explain why the Commission made the decision.

Questions and comments from the audience and abutters. This is an opportunity for the general public and abutters to present their views.

Panel Deliberations. The MAPC panel closes the public portion of the hearing and begins its deliberations. All discussions are held in the open so that the public may hear the reasoning behind the final decision.

The Decision. Generally, the panel renders its decision at the close of the hearing although there may be reasons to allow time for additional deliberations.

AFTER THE HEARING

- 1) **Draft a Decision** - After the hearing MAPC will write up a brief summary of the panel's decision and the reasons for it. This will be reviewed by the panel prior to filing.

- 2) **File Final Decision with City or Town Clerk** - The final decision is signed by the MAPC Executive Director and mailed to the city or town clerk so that it is received within the 45 day period. Copies are sent to all parties.