

**Knox County Planning Alliance**  
**Understanding the Numbers for Use on Review Appeals**  
**June 4, 2022**

**TL;DR: In the last 14 years, the county’s Board of Zoning Appeals has heard sixteen Use on Review appeals. Of those cases, the BZA reached a final resolution for all but five.**

**How Many Appeals Have There Been?**

Some elected officials and staff have claimed that there have been 19 appeals of Use on Review decisions; in that number they count two (2) that were withdrawn by the development applicant before hearing date, and one that was an appeal of a county building officials decision.

The true number of Use on Review appeals that the Board of Zoning Appeals has heard since 2008 is sixteen (16). These three items were either withdrawn or are incorrectly coded as a Use on Review appeal on the agenda. Some elected officials and staff continue to count these three items and use a total of 19 appeals, which is flawed analysis of the information.

First Hearing	Item	Case File	Appealed By	Request	Result
12/2010	T-Mobile	??	MPC Applicant	Appeal denial of use on review for telco tower	Withdrawn prior to hearing
7/2020	Knoxville Stone	6-F-20-UR	MPC Applicant	Appeal denial of use on review for mining and quarry	Withdrawn prior to hearing
7/2021	Ancient Lore Village	N/A	Community	Appeal of building officials decision that was incorrectly coded as appeal of use on review	Heard as appeal of a building officials decision

**Has BZA Only Overturned Planning Commission Once or Twice in the last 15 Years?**

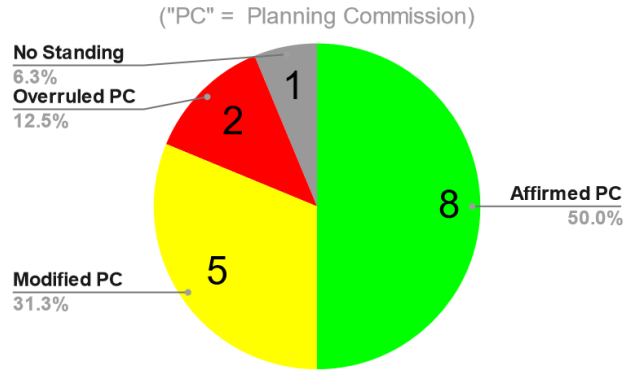
Officials and staff have made statements that only one or two Use on Review appeals have been overturned by BZA in the last 15 years. That is technically correct, but misleading. This misleading number has been used as rationale to claim that hearing appeals first at the BZA is unnecessary - that BZA usually just upholds the Planning Commission. That is an incorrect and flawed conclusion, not supported by data or experience.

For the appeal of a Use on Review matter, the Board of Zoning Appeals has three options set out in Zoning Ordinance [6.50.07](#):

1. **Affirm** the action of the Planning Commission
2. **Modify or impose restrictions** as provided by article 6, "Administration, enforcement and interpretation," subsection 6.50.03, "Restrictions", or
3. **Overrule** the action of the planning commission

Since 2008, the BZA has affirmed the Planning Commission eight times (8, or 50%), modified or imposed restrictions five times, overruled twice (2), and ruled the applicant didn't have standing once (1). This is the full picture supported by the agendas and minutes, and is a much different story than claiming the BZA has only overturned Planning Commission once or twice and is therefore slowing things down by a few months.

BZA Appeal Actions since 2008



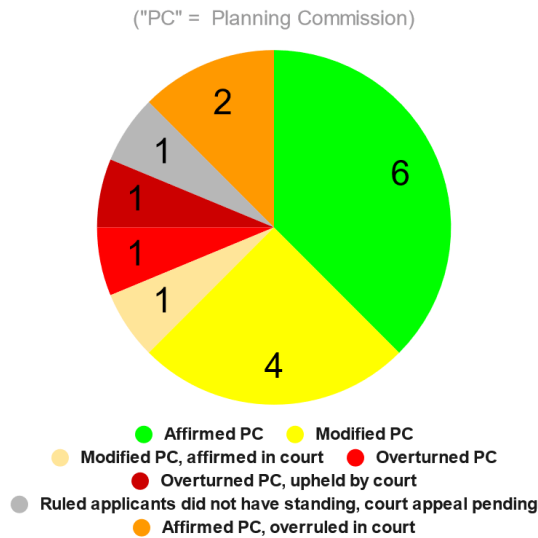
**What's the Actual Results of Use on Review**

**Appeals?**

Full results require looking at the BZA action and then any follow-on decisions if appealed further to court.

	BZA Action was Final	Court Affirmed on Appeal	Court Overruled on Appeal	Court Appeal Pending
BZA <u>Affirmed</u> Planning Commission	6		2	
BZA <u>Modified</u> Planning Commission	4	1		
BZA <u>Overturned</u> Planning Commission	1	1		
BZA Ruled applicants did not have standing				1
Totals	11	2	2	1
Grand Total	16			

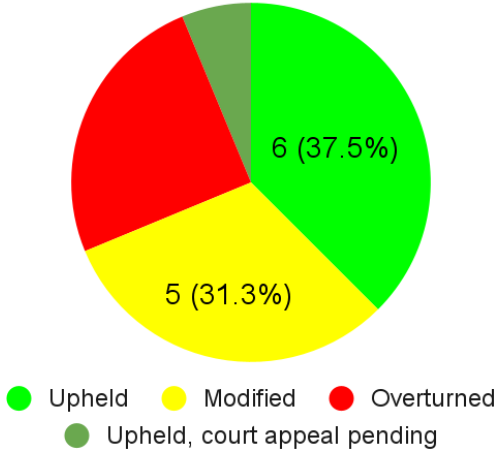
BZA Appeal Decisions since 2008



BZA has achieved a final resolution for 11 of the 16 Use on Review Appeals, providing a much quicker resolution than the 5 cases that have proceeded to court.

A simplified version of the final results of Planning Commission Use on Review decisions since 2008 that were appealed to BZA (and court):

Final Results for  
Planning Commission Decisions  
After BZA and subsequent court appeals



## The Data

The below data is what KCPA could identify based on published agendas, records, recollections and minutes they could find for meetings. A complete archive of BZA minutes is not available online. KCPA and county staff exchanged lists and the data matches up. [Website version of this list](#)

First Hearing	Final Hearing	Item	Case File	Appealed By	Request	Result	Appealed to Court	Zoning Ordinance
9-2008	-	411 Partnership / Shopping Center Norris Fwy	8-D-08-UR	Community	Retail shopping center, deny due to flooding	Overturned Planning Commission and denied Use on Review	Yes, upheld by Chancery Court	SC
10-2009		Expand driving range to 9 hole executive golf course 5125 W Beaver Creek Dr	9-C-09-UR	Community	Deny expansion of previous driving range UoR	Affirmed Planning Commission		AG
12-2009	-	411 Partnership / Shopping Center Norris Fwy	11-C-09-UR	Community	Retail shopping center, deny due to flooding	Affirmed Planning Commission which denied the Use on Review	Yes, BZA overturned at appeal 411 Partnership v. Knox County Nov 16, 2011	SC
10-2010	-	Store school buses in Ag zone	8-B-10-UR	Development Applicant	Overturn planning commission and allow school buses parking storage use in Ag zone	Affirmed Planning Commission		AG
1-2014	2-2014	Westland Cove	9-B-13-UR	Community	apartments, marina, etc	Modified - denied the marina, upheld in court <i>Benson v. Knox County</i>	Yes, upheld by court of appeals <i>Benson, et al. v Knox County, et al.</i> May 12, 2016	PR
10-2014	-	Westland Woods Subdivision	6-F-14-UR	Community	Subdivision	Modified Planning Commission - changed setbacks	-	PR
3-2015	5-2015	Wallace Rd Apartments	1-D-15-UR	Community		Affirmed Planning Commission		
7-2015	8-2015	Lovell Crossing Apartments	5-E-15-UR	Development Applicant	Remove requirement of sidewalks to be constructed	Modified Planning Commission - updated sidewalk condition with options for implementation	-	CN
11-2015	-	Cambridge	10-G-15-U	Community	Subdivision - concern	Affirmed Planning Commission	-	PR

First Hearing	Final Hearing	Item	Case File	Appealed By	Request	Result	Appealed to Court	Zoning Ordinance
		Shores Subdivision	R		with erosion and water damage			
11-2018	-	Post Oak Bend	8-A-18-UR	Community	Deny the use on review because of incompatible traffic	Affirmed Planning Commission	Yes, BZA overturned on appeal, <i>Northshore Corridor Association et al. v. Knox County</i> , ruled March 30, 2021	PR
9/2020	-	Bluegrass Road Subdivision	8-D-20-UR	Community	Question about determination of stream and buffers	Modified Planning Commission - conditioned approval on submitting stormwater plan	-	PR
10/2020	1/2021	Acadia	8-C-20-UR	Community	Residential Treatment Center	Overtaken Planning Commission and denied Use on Review	-	Various
12/2020	1/2021	Zion Lane	11-F-20-UR	Community	Boarding home for 12 residents + 2 staff	Affirmed Planning Commission	-	Various
1/2021	-	Woodbury Crossing	12-A-20-UR	Community	subdivision - request to include amenity area	Modified Planning Commission (slight - added 1 condition)	-	PR
1/2022	3/2022	Johnson Rd	12-D-21-UR	Community	Deny approved use of fueling station and drive-thru and restaurant	Ruled applicants did not have standing and file properly	Appeal Filed May 2022	CN
3/2022	-	Mission Hills Subdivision	1-G-22-UR	Community	Subdivision - deny access to street	Affirmed Planning Commission		PR

Total: 16

Others						
12/2010	-	T-Mobile	??	MPC Applicant	Appeal denial of use on review for telco tower	Withdrawn prior to hearing
7/2020	-	Knoxville Stone	6-F-20-UR	MPC Applicant	Appeal denial of use on review for mining and quarry	Withdrawn prior to hearing
7/2021	8/2021	Ancient Lore Village	-	Community	Appeal of building officials decision that was incorrectly coded as appeal of use on review	

Total: 3 cited by County but KCPA believes should not be included in analysis