

Article 13. Appeals

Effective January 1, 2009, as Amended through November 18, 2014

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Article 13. Appeals

Effective January 1, 2009, as Amended through November 18, 2014

This Article describes the process for addressing unusual situations or unique problems that may arise from the strict interpretation or enforcement of this Development Code, including appeals from an administrative decision, for a special exception, and for unique hardships restricting reasonable use of a property.

Sec. 1301. Types of appeals.

Persons may appeal for relief under the following circumstances:

- (1) Special exception variance.

When an exception is desired for a particular property from certain requirements of this Development Code, as specified in this Article.

- (2) Hardship variance.

When compliance with the requirements of this Development Code would create a particular and unique hardship.

- (3) Flood damage prevention variance.

When the requirements of this Development Code for flood damage prevention would create an exceptional hardship that would adversely affect the use of a property or an historic structure.

- (4) Administrative decision.

When aggrieved by an action or an interpretation of the Planning Director or any other administrative official of the County made under this Development Code. An administrative official is defined as the head of any department subject to these regulations.

- (5) Adult entertainment establishment appeal.

When a permittee is aggrieved by an adverse determination affecting an adult entertainment establishment.

Sec. 1302. Temporary suspension of permitting.

Upon submission of a valid application for the granting of an appeal on a property, no permits shall be issued nor shall any actions be undertaken on the property that may be affected by the outcome of such application.

DIVISION 1. VARIANCES.

Sec. 1303. Special exception variances.

- (a) **Appellant.**

A request for a special exception variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

- (b) **General limitations on relief.**

Special exception variances shall be limited to relief from the following requirements of this Development Code:

- (1) Minimum building setbacks.
- (2) Maximum height of a building, wall, fence or other structure. *[Amended May 27, 2009]*
- (3) Minimum lot width.
- (4) Minimum floor area requirements for dwellings.
- (5) Public street frontage.
- (6) Automobile parking requirements.
- (7) Minimum separation between driveways serving a single property.
- (8) Inter-parcel access requirements between parking lots.
- (9) Zoning buffers and screening.
- (10) Grading and draining requirements for individual building sites.
- (11) Construction or placement of an accessory use or structure prior to or in lieu of a principal use on a property. (see also Sec. 208(b)(2)c. for exceptions.) *[Amended March 22, 2011]*

(c) **Standards for special exception variance approval.**

A special exception variance may be granted by the Planning Commission upon a finding that the relief, if granted: *[Amended November 22, 2014]*

- (1) Would not cause substantial detriment to the public good; and
- (2) Would comply with all fire safety, utility and environmental health code requirements; and
- (3) Would not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity; and
- (4) Would not diminish and impair property values within the surrounding neighborhood; and
- (5) Would not impair the purpose and intent of this Development Code.

(d) **Limitations on special exception variance approval.**

In no case shall a special exception variance be granted from the conditions of approval imposed on a property through a zoning change granted by the Board of Commissioners.

(e) **Restriction on re-filing a special exception variance if denied.**

If denied, an appeal for the same special exception variance affecting the same property shall not be considered for a period of 6 months from the date of denial. *[Amended November 22, 2014]*

(f) **Appeals from decision of the Planning Commission.**

Any person aggrieved by the decision of the Planning Commission may appeal to the Board of Commissioners as provided in the Section 1307. *[Amended November 22, 2014]*

Sec. 1304. Hardship variances.

(a) **Appellant.**

A request for a hardship variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

(b) **Hardship variances; general.** *[Amended November 18, 2014]*

- (1) The Planning Commission may authorize upon appeal in specific cases such variances from the terms of this Development Code as will not be contrary to the public interest where, owing to spe-

cial conditions, a literal enforcement of the provisions of the this Development Code will, in an individual case, result in unnecessary hardship, so that the spirit of this Development Code shall be observed, public safety and welfare secured and substantial justice done.

- (2) The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for approval of the requested variance.
- (3) Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and neither as a convenience to the applicant nor to gain any advantage or interest over similarly zoned properties.

(c) **Standards for hardship variance approval.**

Such variances may be granted in such individual case of unnecessary hardship upon a finding by the Planning Commission that all of the following conditions exist: *[Amended November 18, 2014]*

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of the property have no control; and
- (2) The variance is necessary to provide the applicant the same basic property rights that other property owners in the same zone or vicinity possess; and
- (3) The variance would not be materially detrimental to the purposes of this Development Code, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy; and
- (4) The variance requested is the minimum variance which would alleviate the hardship; and
- (5) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Development Code.

(d) **Limitations on hardship variance approval.**

In no case shall a hardship variance be granted for any of the following:

- (1) A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.
- (2) A change in the conditions of approval imposed through a zoning change granted by the Board of Commissioners.
- (3) Reduction of a minimum lot size required by a zoning district except for a lot of record that existed in its entirety prior to the adoption of this Development Code.
- (4) A use of land or buildings or structures that is not allowed by the zoning district that is applicable to the property.
- (5) Any increase in the number of dwelling units or nonresidential building floor area otherwise allowed by the zoning district that is applicable to the property.

(e) **Restriction on re-filing a hardship variance if denied.**

If denied, an appeal for the same hardship variance affecting the same property shall not be considered for a period of 6 months from the date of denial. *[Amended November 18, 2014]*

(f) **Appeals from the Decision of the Planning Commission.**

Any person aggrieved by the decision of the Planning Commission may appeal to the Board of Commissioners as provided in Section 1307. *[Amended November 18, 2014]*

Sec. 1305. Flood damage prevention variances.**(a) Appellant.**

A request for a flood damage prevention variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

(b) Flood damage prevention variances; general.

A flood damage prevention variance may be considered under the following circumstances:

- (1) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.
- (2) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(c) Standards for approval.

In passing upon a flood damage prevention variance, the Planning Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Development Code relating to flood damage prevention, and the: *[Amended November 18, 2014]*

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger to life and property due to flooding or erosion damage;
- (3) Susceptibility of the facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) Importance of the services provided by the facility to the community;
- (5) Necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (6) Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) Compatibility of the use with existing and anticipated development;
- (8) Relationship of the use to the comprehensive plan and flood plain management program for that area;
- (9) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(d) **Limitations on approval.**

- (1) Upon consideration of the standards listed above, and the purposes of this Development Code, the Planning Commission may attach such conditions to the granting of the variance as it deems necessary to further the purposes of flood damage prevention. *[Amended November 18, 2014]*
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Conditions for variances are as follows:
 - a. The flood damage prevention provisions of this Development Code are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historical building, a determination that the variance is the minimum necessary so as not to destroy the historical character and design of the building.
 - b. Variances shall only be approved upon:
 1. Showing of good and sufficient cause;
 2. Determination that failure to grant the variance would result in exceptional hardship; and
 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Development Codes.

(e) **Requirements if approved.**

- (1) Any applicant to whom a flood damage prevention variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk to life or property.
- (2) The Planning Department shall maintain the records of all such variance actions and report any flood damage prevention variances to the Federal Emergency Management Agency upon request.

(f) **Restriction on re-filing a flood damage prevention variance if denied.**

If denied, an appeal for the same flood damage prevention variance affecting the same property shall not be considered for a period of 6 months from the date of denial. *[Amended November 18, 2014]*

(g) **Appeals from the decision of the Planning Commission.**

Any person aggrieved by the decision of the Planning Commission may appeal to the Board of Commissioners as provided in Section 1307. *[Amended November 18, 2014]*

Sec. 1306. Process for granting a variance.

(a) **Application and initial actions.**

- (1) An application for a variance filed under this Division 1 shall include such descriptions, maps or drawings as needed to clearly illustrate or explain the action requested. The Planning Director may request such additional information from the appellant as necessary to provide a full understanding of the appellant's request.
- (2) Once the record has been assembled, the Planning Director shall:

- a. Schedule appeals for consideration at the next meeting of the Planning Commission for which adequate public notice can be given; and
- b. Send a letter by first class mail to the applicant or his attorney notifying the appellate of either 1) administrative resolution of the matter or 2) the date, time and place of the public hearing.

(b) **Public notice.**

- (1) At least 15 days prior to the public hearing, notice shall be published in a newspaper of general circulation within the county. The notice shall state the time, place and purpose of the hearing and shall include the location of the property, the present zoning classification of the property, and the nature of the requested action
- (2) Posting of signs.
 - a. In addition to the newspaper notice, a sign or signs shall be placed by planning staff in a conspicuous location on the property frontage in such manner as to be legible from the public road. On lots with more than one road frontage, a sign will be placed facing each public road. If the property has no road frontage, the sign shall be placed on each road at a location where access will be gained to the property. *[Amended November 18, 2014]*
 - b. The sign(s) must be in place no less than 15 days prior to the date of the public hearing and shall state the date, time and place for the public hearing, and the nature of the proposed variance.
 - c. Planning staff shall remove any and all public notice signs from the subject property within 3 business days after the date of final action. *[Amended November 18, 2014]*

(c) **Withdrawal.**

Any appellant wishing to withdraw a variance application prior to final action by the Planning Commission shall file a written request for withdrawal with the Planning Director. *[Amended November 18, 2014]*

- (1) The withdrawal request must be in writing and signed by the owner, the appellant or the owner's authorized agent.
- (2) If the request for withdrawal is received prior to the publication of notice for the public hearing as required under Sec. 1306(b), the application shall be withdrawn administratively by the Planning Director.
- (3) If a request for withdrawal of a variance application is received after notice has been published (or irretrievably set for publication) for the scheduled public hearing, the appeal may be withdrawn with the consent of the Planning Commission and removed from further consideration.

(d) **Planning Commission public hearing.**

- (1) The Chair or the Planning Commissions' designee, who shall act as the Presiding Official, shall convene the public hearing at the scheduled time and place.
- (2) The Presiding Official may administer oaths and compel the attendance of witnesses by subpoena.
- (3) The Planning Director shall submit the assembled record of the variance request to the Planning Commission. The Planning Director shall provide such information or explanation as appropriate to the circumstances of the variance.
- (4) At the public hearing, the appellant may appear in person or may be represented by counsel. The following rules shall apply in the conduct of the public hearing:

- a. The presiding official shall conduct the public hearing informally, as strict adherence to the rules of evidence is not required. Rules of evidence as applied in an administrative hearing shall apply.
 - b. The appellant shall first present evidence to the Planning Commission. After the appellant and any proponents of the variance have completed the presentation of evidence, opponents shall present such relevant evidence as they think appropriate after being recognized by the presiding official.
 - c. All parties participating in the public hearing shall introduce only relevant evidence.
 - d. All parties participating shall have the right to present witnesses and to cross-examine witnesses.
 - e. The appellant shall have an opportunity to present rebuttal evidence, but such evidence shall be limited to points or issues raised by the opponents.
 - f. The public hearing shall be tape recorded, either by videotape or by audiotape, in order to provide a verbatim record of the hearing.
- (5) Following the public hearing, the Planning Commission shall make a decision and adopt findings of fact supporting the decision. Such decision shall reflect the vote of the Planning Commission, as follows: *[Amended November 18, 2014]*
- a. A motion to approve or deny of a variance must be approved by an affirmative vote of at least three of the members in order for the motion to be approved. *[Amended November 18, 2014]*
 - b. If a motion to approve a variance fails, the variance is automatically denied. If a motion to deny a variance fails, another motion would be in order. *[Amended November 18, 2014]*
 - c. A tie vote on a motion for approval a variance shall be deemed a denial of the variance. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order. *[Amended November 18, 2014]*
- (6) In making a decision on a variance, the Planning Commission may: *[Amended November 18, 2014]*
- a. Approve, approve with conditions or deny the request; or, *[Amended November 18, 2014]*
 - b. Table the variance for consideration at its next scheduled meeting; or,
 - c. Allow withdrawal of the variance at the request of the appellant.

Sec. 1307. Appeals from Decisions of the Planning Commission. *[Amended November 18, 2014]*

Any person aggrieved by the decision of the Planning Commission may appeal to the Board of Commissioners not more than 30 days from the date of decision of the Planning Commission. The appeal must be filed in writing and shall describe the basis for the appeal and state the specific objection to the decision of the Planning Commission. Before taking action on any appeal from a variance decision of the Planning Commission the Board of Commissioners shall conduct a public hearing at a regular meeting. The public hearing shall be advertised as provided for in Section 1306(b). *[Amended November 18, 2014]*

(a) **Board of commissioners' public hearing.**

- (1) The Chair or the Commissioners' designee, who shall act as the Presiding Official, shall convene the public hearing at the scheduled time and place.
- (2) The Presiding Official may administer oaths and compel the attendance of witnesses by subpoena.
- (3) The Planning Director shall submit the assembled record of the variance decision appeal to the Board of Commissioners. The Planning Director shall provide such information or explanation as appropriate to the circumstances of the variance. *[Amended November 18, 2014]*

- (4) At the public hearing, the appellant may appear in person or may be represented by counsel. The following rules shall apply in the conduct of the public hearing:
- a. The presiding official shall conduct the public hearing informally, as strict adherence to the rules of evidence is not required. Rules of evidence as applied in an administrative hearing shall apply.
 - b. The appellant shall first present evidence to the Board of Commissioners. After the appellant and any proponents of the variance have completed the presentation of evidence, opponents shall present such relevant evidence as they think appropriate after being recognized by the presiding official.
 - c. All parties participating in the public hearing shall introduce only relevant evidence.
 - d. All parties participating shall have the right to present witnesses and to cross-examine witnesses.
 - e. The appellant shall have an opportunity to present rebuttal evidence, but such evidence shall be limited to points or issues raised by the opponents.
 - f. The public hearing shall be tape recorded, either by videotape or by audiotape, in order to provide a verbatim record of the hearing.
- (5) Following the public hearing, the Board of Commissioners shall make a decision and adopt findings of fact supporting the decision. Such decision shall reflect the vote of the Board of Commissioners, as follows:
- a. A motion to approve or deny a variance appeal must be approved by an affirmative vote of at least a quorum of the members in order for the motion to be approved. *[Amended November 18, 2014]*
 - b. If a motion to approve a variance appeal fails, the variance is automatically denied. If a motion to deny a variance fails, another motion would be in order. *[Amended November 18, 2014]*
 - c. A tie vote on a motion for approval of a variance appeal shall be deemed a denial of the variance. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order. *[Amended November 18, 2014]*
- (6) In making a decision on a variance appeal, the Board of Commissioners may: *[Amended November 18, 2014]*
- a. Approve, approve with conditions or deny the request; or,
 - b. Table the variance appeal for consideration at its next scheduled meeting; or, *[Amended November 18, 2014]*
 - c. Allow withdrawal of the variance appeal at the request of the appellant. *[Amended November 18, 2014]*

(b) **Written decision.**

On all appeals brought before the Board of Commissioners, the appellant shall be informed in writing of the Board's decisions and the findings of fact that support the decision within 10 days of the date of the decision. Failure to receive notice within 10 days shall not constitute a procedural error on the part of the County, nor affect the decision of the Board in any manner.

(c) **Conditional approval.**

In approving a variance appeal, the Board of Commissioners may impose conditions of approval which it deems necessary in order to make the requested action acceptable and consistent with the purposes of this Development Code and of the zoning district(s) involved, to ameliorate negative issues identified through evaluation

of the variance, or to further the goals and objectives of any County adopted plans. *[Amended November 18, 2014]*

(d) **Decision final.**

(1) A decision of the Board of Commissioners shall be final and may be appealed only to a court of competent jurisdiction. Such appeal must be taken within 30 days of the decision of the Board of Commissioners.

(2) Alternative actions.

Based on these proceedings and the decision of the court, Camden County may, within the time specified by the court, elect to:

- a. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
- b. Approve the variance application with restrictions or conditions (i.e., grant a variance conditionally); or
- c. Institute other appropriate actions ordered by the court that fall within the jurisdiction of Camden County.

DIVISION 2. APPEALS OF AN ADMINISTRATIVE DECISION.

Sec. 1308. Administrative appeals.

(a) **Appellant.**

Any person aggrieved by an administrative action or interpretation of an administrative official (other than an adult entertainment establishment appeal—see Sec. 1309) may initiate an appeal directly to the Board of Commissioners.

(b) **Initiation of administrative appeal.**

(1) An administrative appeal shall be taken within 30 days of the action or interpretation appealed from, by filing the appeal in writing with the Planning Director. The Planning Director shall transmit a notice of said appeal to the Board of Commissioners specifying the grounds thereof.

(2) The holder of or applicant for a development permit or a building permit may appeal any action taken by an administrative official, including the following:

- a. The suspension, revocation, modification or approval with conditions of a development permit or building permit upon finding that the holder is not in compliance with the approved erosion and sedimentation control plan or other approved plans.
- b. The determination that the holder is in violation of development permit or building permit conditions or requirements.
- c. The determination that the holder is in violation of any other provision of this Development Code.

(3) The Planning Director may initiate an administrative appeal independently when an interpretation or clarification of the meaning of words or phrases, of the particular boundaries of a zoning district or of any other provision of this Development Code is needed.

(c) **Temporary suspension of legal proceedings.**

An appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is made certifies to the Board of Commissioners,

after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would, in such administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction due cause shown.

(d) **Action by the Board of Commissioners.**

- (1) Upon receiving a notice of an administrative appeal, the Planning Director shall assemble such memos, papers, plans or other documents from the appellant as may constitute the record for the appeal or as may provide an understanding of the issues involved.
- (2) The Planning Director shall transmit the administrative appeal request and all related documentation to the Board of Commissioners such that the administrative appeal request can be considered by the Board within 30 days of the filing of the appeal with the Planning Director.
- (3) The Board of Commissioners, upon an administrative appeal by an aggrieved party (or at the independent request of the Planning Director), shall consider the appeal within 30 days of the filing of the appeal with the Planning Director, and may:
 - a. Decide appeals from any order, determination, decision or other interpretation by any person acting under authority of this Development Code, where a misinterpretation or misapplication of the requirements or other provisions of this Development Code is alleged.
 - b. Interpret the use of words or phrases within the context of the intent of this Development Code.
 - c. Determine the boundaries of the various zoning districts where uncertainty exists.
 - d. Interpret such other provisions of this Development Code as may require clarification or extension in specific or general cases.
- (4) Decisions of the Board of Commissioners.

In exercising its powers on administrative appeals, the Board of Commissioners may, in conformity with the provisions of this Development Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the official from whom the appeal is taken and may issue or direct the issuance of a permit.

Sec. 1309. Adult entertainment establishment appeals.

(a) **Appellant.**

A permittee of an adult entertainment establishment shall, within ten days after he has been notified of an adverse determination, submit a notice of appeal to the County Manager.

(b) **Appeal procedure; adult entertainment establishment.**

- (1) The notice of appeal shall be addressed to the chairman of the Board of Commissioners and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice), the basis of the appeal, the action requested of the chairman of the Board of Commissioners, and the name and address of the applicant.
- (2) The County Manager shall place the appeal on the agenda of the next regular meeting of the Board of Commissioners occurring not less than five or more than 30 days after receipt of appeal.

(c) **Board of commissioners determines appeal procedure.**

When an appeal under this Section is placed on the agenda, the Board of Commissioners may take either of the following actions:

- (1) Set a hearing date and instruct the County Manager to mail written notice of hearing by certified mail, return receipt requested, to the appellant and their attorney; or
- (2) Appoint a hearing officer and fix the time and place for the hearing. The hearing officer may or may not be a county employee and may be appointed for an extended period of time.

The County Manager shall assume responsibility for the mailing of notice of the hearing by certified mail, return receipt requested. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this Section.

(d) **Hearing.**

Whenever the County Manager has scheduled an appeal under this Section before the Board of Commissioners, at the time and date set, the Board of Commissioners shall receive all relevant testimony and evidence from the permittee, from interested parties, and from county staff. The Board may sustain, overrule or modify the action complained of. The action of the Board shall be final.

(e) **Powers of hearing officer.**

The hearing officer appointed pursuant to the procedure set out in this Section may receive and rule on admissibility of evidence, hear testimony under oath, and call witnesses as he may deem advisable with respect to the conduct of the hearing.

(f) **Rules of evidence inapplicable.**

The Board of Commissioners and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this Section. Rules of evidence as applied in an administrative hearing shall apply.

(g) **Hearing officer's report.**

- (1) The hearing officer appointed under this Section shall, within a reasonable time not to exceed 30 days from the date of such hearing is terminated, submit a written report to the Board of Commissioners. Such report shall contain a brief summary of the evidence considered and state findings of fact, conclusions and recommendations. All such reports shall be filed with the County Manager and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the County Manager, with additional copies furnished to the County Administrator and the Sheriff.
- (2) The County Manager shall place the hearing officer's report on the agenda of the next regular Board of Commissioners' meeting occurring not less than ten days after the report is filed and shall notify the permittee/appellant of the date of such meeting at least ten days prior to the meeting unless the permittee/appellant stipulates to a shorter notice period.

(h) **Action by board of commissioners.**

The Board of Commissioners may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the Board of Commissioners does not adopt the hearing officer's recommendation, it may:

- (1) Refer the matter to the same or another hearing officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the hearing officer shall proceed as provided in this Section; or
- (2) Decide the case upon review of the entire record before the hearing officer with or without taking additional evidence.

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