
Article 6

Zoning Hearing Board

Section 601 Creation and Appointment

There shall be a Zoning Hearing Board which shall consist of three (3) members who shall be appointed by resolution by the Board of Supervisors. Members of the Zoning Hearing Board shall meet all applicable requirements of the MPC. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year.

The Board of Supervisors may appoint by resolution at least one (1) but no more than three (3) residents of the Township to serve as alternate members of the Zoning Hearing Board, who shall have all the powers and duties set forth in the MPC.

Section 602 Organization of Zoning Hearing Board

The Zoning Hearing Board shall elect from its membership its officers, who shall serve annual terms as such and may succeed themselves. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with the ordinances of the Township and the laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.

The Zoning Hearing Board shall conduct hearings and take any action in accordance with the MPC. If the Board of Supervisors has appointed alternate members to the Zoning Hearing Board, the Chairman of the Zoning Hearing Board may designate alternate members to participate and vote upon designated applications in accordance with the regulations contained in Article IX of the MPC.

Section 603 Expenditures for Services

All expenditures for services incurred by the Zoning Hearing Board shall be in accordance with the applicable provisions of the MPC.

Section 604 Hearings

The Zoning Hearing Board shall conduct hearings and shall make decisions in accordance with the requirements of Article IX of the MPC. The Zoning Hearing Board shall render decisions and provide notice of its decisions in accordance with the requirements of Article IX of the MPC.

A. Effect of Zoning Hearing Board's Decision

1. If the variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within one (1) year after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed as evidenced by issuance of a Certificate of Use and Occupancy within two (2) years of said date. For good cause, the Zoning Hearing Board may at any time, upon application in writing, extend either of these deadlines;
2. Should the appellant or applicant fail to obtain the necessary permits within said one (1) year period, or having obtained the permit, should s/he fail to commence work thereunder within such one (1) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his/her appeal or his/her application, and all provisions, variances and permits granted to him/her shall be deemed automatically rescinded by the Zoning Hearing Board;
3. Should the appellant or applicant commence construction or alteration within said one (1) year period, but should s/he fail to complete such construction or alteration within said two (2) year period, the Zoning Hearing Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such two (2) year period, and if the Zoning Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified; and
4. As an alternative to the preceding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in Sections 604.2.1-3. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Zoning Hearing Board must establish and bind a definite time-

frame for (1) issuance of a building permit, and (2) completion of construction of the project.

Section 605 Zoning Hearing Board's Functions

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the following matters:

A. Substantive Validity Challenges

1. The Zoning Hearing Board shall have jurisdiction over and shall conduct hearings and render decisions on challenges to the substantive validity of the Zoning Ordinance in accordance with the requirements of Article IX of the MPC.
2. Challenges to the Validity of the Zoning Ordinance, raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of the Ordinance.

B. Special Exceptions

Special Exceptions, as provided for in this Ordinance and subject to all applicable requirements, including, but not limited to:

1. Filing Requirements – All applications for special exceptions shall be submitted to the Zoning Officer. All applications shall be made on the form supplied by the Township and shall contain all information requested on such form. All applications shall also contain the following information:
 - a. Name and address of the applicant and, if different, the name and address of the landowner. If the applicant is not the landowner of record, information demonstrating that the applicant has the legal right to make the application shall accompany the application.
 - b. Dimensions, shape, and area of the lot to be developed, and the exact location and dimensions of any structure(s) existing or to be erected.
 - c. An accurate and legible elevation drawing that shows each face of the proposed building or structure including the height.
 - d. Existing and proposed uses of all existing and proposed structures and land uses.
 - e. Existing and proposed off-street parking and loading spaces, street and path or sidewalk layout, width and alignment.

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- f. A legible, accurate, detailed site plan to demonstrate compliance with all applicable provisions of this Ordinance.
 - g. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance, including citations to Sections of this Ordinance under which the application is filed.
 - h. A listing of all conditional uses and/or variances which the applicant is requesting in connection with the proposed use.
 - i. Existing natural and man-made features on the tract.
 - j. The intensity of land use allocated to each part of the site, the number of dwelling units and area of all buildings proposed.
 - k. Existing or proposed easements and the purpose for which they are reserved.
 - l. The names of all adjacent property owners, streets (or right-of-ways), utilities, right-of-ways.
 - m. The method of water supply and sewage disposal proposed. The Board may require the submission of sewer and water feasibility studies.
 - n. All traffic improvements shown to be necessary if a traffic study is required by the SALDO.
 - o. The Board may require environmental resource studies to assure that the Board has adequate information on which to base a decision. These studies include, but are not limited to woodland evaluation, steep slope report, geotechnical evaluation, and wetland delineations.
2. General Criteria – Each applicant must demonstrate compliance with the following:
- a. The proposed use shall be in compliance with all applicable provisions and consistent with the purpose and intent of the Zoning Ordinance;
 - b. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
 - c. The proposed use will not substantially change the character of the subject property's neighborhood;

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- d. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water and other utilities, etc.);
 - e. For development within the Floodplain Overlay District, that the application complies with those requirements listed within the Floodplain Overlay District;
 - f. The proposed use shall comply with those criteria specifically listed in Article 3 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance;
 - g. The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan;
 - h. The proposed use shall not be detrimental to the public, health, safety, and welfare;
 - i. The proposed use will not overcrowd the land or create an undue concentration of population;
 - j. The proposed use will not impair an adequate supply of light and air to adjacent property; and
 - k. The proposed use will not adversely affect transportation.
3. Conditions – The Zoning Hearing Board in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 7. The Board shall, among other things:
- a. Consider the suitability of the property for the use desired and assure itself that the proposal is consistent with the spirit, purpose, and intent of this Ordinance.
 - b. Determine that the applicant has satisfactorily proven that the General and Specific criteria requirements of this Ordinance have been met.
 - c. Impose such conditions, in addition to those specifically required in this Ordinance in accordance with individual district regulations, as are necessary to assure that the intent of the Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting or other structures and their

maintenance as a sight or sound screen, the minimizing of noxious, offensive, or hazardous elements, and adequate standards for parking and sanitation.

4. Site Plan Approval – Any plans, reports, or testimony presented in support of the special exception shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted plan(s), reports and applicant testimony; therefore, should a change in this information occur subsequent to Special Exception approval, the applicant shall revise the plan(s), report(s) and all other information offered on behalf of the applicant, prior to application for a zoning or building permit. Substantial changes as determined by the Zoning Officer, shall be required to obtain another special exception. Further, any subsequent change to the use on the subject property not reflected in the original Special Exception, shall require the obtainment of another special exception approval.

C. Variances

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or zone in which the property is located.
2. That because of such physical circumstances or conditions, there is not possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
3. That such unnecessary hardship has not been created by the applicant.
4. That the variance, if authorized, will not alter the essential character of the zone or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.

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6. That variances within the Floodplain Overlay District shall comply with the Standards and Criteria for Special Exceptions and Variances in the Floodplain Overlay District section of this Ordinance.
 7. Filing Requirements – All applications for variances shall be submitted to the Zoning Officer. All applications shall be made on the form supplied by the Township and shall contain all information requested on such form. All applications shall also contain all of the information required for an application for a special exception.
 8. Conditions – The Zoning Hearing Board in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 7. The Board shall, among other things:
 - a. Consider the suitability of the property for the use desired and assure itself that the proposal is consistent with the spirit, purpose, and intent of this Ordinance.
 - b. Impose such conditions, in addition to those specifically required in this Ordinance in accordance with individual district regulations, as are necessary to assure that the intent of the Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting or other structures and their maintenance as a sight or sound screen, the minimizing of noxious, offensive, or hazardous elements, and adequate standards for parking and sanitation.
 9. Site Plan Approval – Any plans, reports, and testimony presented in support of the variance shall become an official part of the record for said variance. Approval of any variance will also bind the use in accordance with the submitted plan(s), reports and applicant testimony; therefore, should a change in this information occur subsequent to variance approval, the applicant shall revise the plan(s), report(s) and all other information offered on behalf of the applicant, prior to application for a zoning or building permit. Substantial changes as determined by the Zoning Officer, shall be required to obtain another variance. Further, any subsequent change to the use on the subject property not reflected in the original variance, shall require the obtainment of another variance approval.

D. Appeals

1. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the

application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

2. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any provisions contained within the Floodplain Overlay District.

Section 606 Parties Appellant Before the Zoning Hearing Board

Appeals and proceedings to challenge this Ordinance may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance and for special exception may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner. Any appeal shall state:

1. The name and address of the appellant and applicant;
2. The name and address of the landowner of the real estate to be affected;
3. A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request;
4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof; and
5. A statement of the section of this Ordinance under which the request may be allowed, and reasons why it should, or should not be granted.

Section 607 Time Limitations

Appeals from the denial of an application by the Zoning Officer or from the issuance of a notice of violation and/or cease and desist order shall be made within thirty (30) days of the denial of said permit or issuance of said notice of violation and/or cease and desist order. Appeals from any approval issued by the Zoning Officer or the Zoning Hearing Board shall be filed to the Zoning Hearing Board within the time limits imposed in the MPC. No appeal shall be considered complete without the required filing fee.

Section 608 Stay of Proceeding

The filing of an appeal or challenge to the validity of this Ordinance or other land use ordinance shall act as a stay of proceedings to the extent established in Article IX of the MPC.

Section 609 Appeal

Any person, taxpayer, or the Township aggrieved by any decision of the Zoning Hearing Board may within thirty (30) days after such decision of the Zoning

Hearing Board seek review by the Court of Common Pleas of such decision in the manner provided by the laws of the Commonwealth of Pennsylvania and the MPC as amended.