
ARTICLE 25
ZONING HEARING BOARD
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Section 2500 Establishment of Board

A Zoning Hearing Board is established in order that the objectives of this Ordinance may be more fully and equitably achieved and to provide a means for competent interpretation of this Ordinance.

Section 2501 Membership and Terms of Office

- A. The Zoning Hearing Board shall consist of three residents of the Borough, appointed by resolution of the Borough Council. The terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. At the adoption of this Ordinance, Zoning Hearing Board members shall continue in office pursuant to their current terms. Board members shall hold no other Borough office. Any member of the board may be removed for cause by Borough Council upon written notice and charges after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as those for original appointments.
- B. The Borough Council may appoint, by resolution, from one to three residents to serve as alternate members of the board for three-year terms. Alternates shall hold no other Borough office. Alternates may participate in any proceeding or discussion of the board but shall not be entitled to vote or to be compensated unless designated by the chairperson to sit on the board in order to provide a quorum. Designation of alternates to sit on the board shall be made case by case in rotation according to declining seniority among all alternates.

Section 2502 Procedures

- A. Officers

The board shall elect from its own membership a chairperson and vice chairperson who shall serve annual terms as such and may succeed themselves. The board may make, alter, and rescind rules and forms for its procedures consistent with the provisions of the Pennsylvania Municipalities Planning Code, as amended, and this Ordinance.

B. Hearings

Public notice shall be given of all hearings consistent with the Municipalities Planning Code. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board.

C. Records and Decisions

The board shall keep a record of its proceedings and official actions, which shall be filed in the Borough Hall and shall be a public record.

D. Compensation

The Borough Council may fix per-meeting compensation for the members of the board, according to a schedule adopted by resolution of the Borough Council upon the enactment of this Ordinance or at any time thereafter, and such schedule may be amended from time to time; but in no case shall compensation exceed the rate of compensation authorized to be paid to the Borough Council.

Section 2503 Interpretation

Upon appeal from a decision by the Zoning Officer, the Zoning Hearing Board shall decide any questions:

- A. Involving the interpretation of any provisions of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty; and
- B. Where it is alleged there is error in any order, requirement, decision or determination in the enforcement of this Ordinance, including an order made by the Zoning Officer requiring an alleged violation to stop, cease and desist.

Section 2504 Variances

The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. Subject to the provisions of the Pennsylvania Municipalities Planning Code, the Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided the following findings are made where relevant in a given case:

- A. 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, or the circumstances or

conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- C. That such unnecessary hardship has not been created by the applicant;
- D. That a variance, if authorized, will not alter the essential character of the neighborhood or district 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; and,
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In granting any variance, the board may attach reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance.

Section 2505 Special Exceptions

A. Applicability

The Zoning Hearing Board shall have the power to approve special exceptions when this Ordinance specifically requires the obtaining of such approval.

B. Conditions and Standards

In granting a special exception, the Zoning Hearing Board shall make findings of fact consistent with the provisions of this Ordinance. The board shall not approve a special exception except in conformance with the conditions and standards outlined in this Ordinance.

C. General Requirements and Standards Applicable to All Special Exceptions

The board shall grant a special exception only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements as well as any specific requirements and standards listed herein for the proposed use. The board shall, among other things, require that any proposed use and location be.

1. In accordance with the Borough Comprehensive Plan and consistent with the spirit, purposes and the intent of this Ordinance.
2. In the best interests of the Borough, the convenience of the community and the public welfare, and a substantial improvement to the property in the immediate vicinity;

3. Suitable for the property in question and designed, constructed, operated, and maintained to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;
4. In conformance with all applicable requirements of this Ordinance;
5. Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and,
6. In accordance with sound standards of subdivision and land development practice where applicable.

The Zoning Hearing Board may impose whatever conditions regarding layout, circulation and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of this Ordinance.

Section 2506 Challenge to the Validity of the Zoning Ordinance or Map

The Board shall hear challenges and appeals as delineated in the Municipalities Planning Code, as amended. The Board shall take evidence and make a record as provided in Section 2502.C. of this Ordinance. At the conclusion of the hearing, the board shall decide all contested questions and shall make findings on all relevant issues of fact, which shall become part of the record for appeal to the court.

Section 2507 Actions of the Board in Exercising Powers

In exercising the above-mentioned powers, the Zoning Hearing Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion should be made. Written notice of such decision shall be given forthwith to all interested parties.

Section 2508 General Rules and Procedures for Appeals and Applications

- A. Any appeal from the ruling of the Zoning Officer concerning the enforcement and interpretation of the provisions of this Ordinance shall be filed with the Zoning Officer within 30 days after the date of the Zoning Officer's adverse decision.
- B. All appeals and applications made to the board shall be in writing on standard forms prescribed by the Zoning Hearing Board.
- C. All appeals and applications shall refer to the specific provisions of this Ordinance involved.

Section 2509 Eligible Appellants

Appeals to the Zoning Hearing Board may be taken by any person aggrieved or affected by any provisions of this Ordinance or by any decision, including any order to stop, cease, and desist issued by the Zoning Officer in enforcing the provisions of this Ordinance.

Section 2510 Notice of Hearings

Upon the filing with the Zoning Hearing Board of an application for a special exception, variance, interpretation of this Ordinance or other appeal, the Board shall hold a public hearing within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time, and;

- A. Provide public notice published each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state

the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

- B. Give written notice to the applicant, the Zoning Officer, persons whose properties adjoin or are across public roads from the property in question or are within 100 feet of the property in question, and to any person who has made timely request for same.

Section 2511 Fees

The applicant for any hearing before the Zoning Hearing Board shall, at the time of making application, pay a fee in accordance with the Fee Schedule adopted by resolution of the Borough Council.

Section 2512 Expiration of Special Exceptions and Variances

A special exception or variance shall expire if the applicant fails to obtain a Zoning Permit within one year of the date of the granting of the special exception or variance; provided, however, that:

- A If the subject matter of the use constitutes either a subdivision or land development, the special exception or variance shall expire if the applicant fails to file the required subdivision or land development plan within one year of the granting of the special exception or variance. The applicant shall have six months after the final plans of the subdivision or land development are approved and recorded to obtain a Zoning Permit; and
- B The Zoning Hearing Board may grant one extension of time for a period not to exceed one year if the landowner or his agent requests such an extension, and if good cause for the extension is shown.