

GENERAL INSTRUCTIONS FOR PENN TOWNSHIP ZONING  
HEARING BOARD APPLICATIONS

1. All information on the application along with property survey and supporting documents must be furnished to the Township Office at the time of the application.
2. The following must accompany all applications:
  - a. A filing fee must be cash or check made payable to Penn Township in the amount of \$1,200 for requests relating to single-family residential use or for requests relating to all other uses.
  - b. It is suggested that area survey of the affected real estate as it now exists, prepared by a registered surveyor or registered professional engineer be submitted with the application. The survey shall indicate the location and size of the real estate, the location and size of improvements now erected thereon, the location and size of improvements proposed to be erected thereon, and the existing and proposed front, rear and side yards, where yard width or yard depth is in question. The following minimum numbers of copies are required:
    1. Variance request - 9 copies
    2. Special exception- 15 copies
3. Any application for relief to the Penn Township Zoning Hearing Board must be filed with the Zoning Officer no later than 4:30 p.m. on the 2<sup>nd</sup> Monday of the month. Applications received after the deadline date will be scheduled for hearing at the regular Board meeting on the second month following the date of filing. A zoning hearing will be held within sixty (60) days of the received application. A decision will be made within 30 days of the hearing and communicated to the applicant.
4. Any application received by Penn Township that does not satisfy all of the filing requirements as set forth shall be deemed as incomplete, not acceptable, and shall be returned to the applicant.
5. Applicant or his representative must attend the hearing to speak upon the application at the advertised meeting; otherwise, the application will be denied, unless postponement is given by the Zoning Hearing Board upon cause shown or by its own motion.
6. The Zoning Hearing Board has the following powers:
  - a. To hear and decide appeals where it is alleged by the applicant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provisions of the Zoning Ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.

- b. To hear and decide requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. Burden of proof of unnecessary hardship shall rest on the applicant. The circumstances must be unique, applicable to the particular property, and no other. The possibility of a greater financial return does not in itself constitute unnecessary hardship. Other pertinent provisions governing variances are reread in Section P10.2 of the Pennsylvania Municipalities Planning Code.
7. All meetings of the Zoning Hearing Board shall be open to the public. The Board shall keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
8. No decision by the Zoning Hearing Board shall relieve any applicant from the duty or responsibility of obtaining any permits as and when required by any of Perm Township Ordinances.
9. Notice of the time and place of all hearings shall be given by mail to the applicant and the Zoning Officer and to any person who shall make a timely request in writing for notice of the hearing. Notice of the time and place of all hearings shall be given by publishing the same in a newspaper of general circulation in the Township. Furthermore, notice of the hearing shall be conspicuously posted on the effected tract of land and adjoining within 200 feet of the property, which notices shall be posted at least one week to the date set for the hearing.

## **Section 1809 - Hearings of the Zoning Hearing Board**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public Notice.

Public notice shall be given, and written notice shall be given to (1) the applicant, (2) the Township Zoning Officer and (3) to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Zoning Hearing Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

2. Fees.

The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

3. Conduct of Hearing. (2005-03 - 12/28/2005)

The hearing shall be held within 60 days from the date of the applicant's request unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be within 45 days of the prior hearing unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the court of common pleas for judicial relief. The hearing shall be completed no later than 100 days after the completion of the applicant's case in chief, unless extended by good cause upon application to the court of common pleas. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member, or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final.

4. The parties to the hearing shall be the Township of Penn, any person affected by the application who has made timely

appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear before the Board. The Zoning Hearing Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

5. The chairman or acting chairman of the Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
9. The Zoning Hearing Board or hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
10. Decisions.

The Zoning Hearing Board, the hearing officer, or independent attorney, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last

hearing before the Zoning Hearing Board, hearing officer, or independent attorney. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with reasons therefor. Conclusions based on any provisions of this Ordinance or any Township ordinance, rule or regulation, or the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer or independent attorney. Where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing pursuant to Section 1809, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

11. To all other persons who have filed their name and address with the Zoning Hearing Board no later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

12. Effect of Board's Decision.

a. If the variance or special exception is granted or the issuance of a permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permit shall be secured and the authorized action begun within six (6) months 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 or applicant is authorized and provided further that the building or alteration, as the case may be, shall be completed within twelve (12) months of authorization by the Zoning Hearing Board. For good cause, the Board, upon application by the developer in writing stating the reasons therefor, may grant an extension or extensions of time for the commencement of the authorized in six (6) month increments, or may grant

an extension or extensions of time for the completion of the authorized action in six (6) month increments. Where time allowed for the commencement of the authorized action has been granted an extension, the time allowed for the completion of the authorized action shall be automatically extended by an equal amount of time.

- b. Should the appellant or applicant fail to obtain the necessary permits within the required period, or having obtained the permit should he fail to commence work thereunder within such period, it shall be conclusively presumed that the applicant has withdrawn or abandoned his appeal or his application, and all provisions, variances, special exceptions and permits granted to him shall be deemed automatically rescinded by the said Board.
- c. Should the appellant or applicant commence construction or alteration within the required period but fail to complete such construction or alteration within such period, the 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 board finds that no good cause appears for the failure to complete such construction or alteration within such period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, special exception, permit or action, that revocation or revision of the action is justified.

**Section 1810 - Zoning Hearing Board - Functions (2004-02 - 5/26/2004)**

1. Variances. The Zoning Hearing Board shall hear and decide requests for variances in accordance with the standards and criteria set forth in Section 1821 of this Ordinance. In granting a variance, the Zoning Hearing Board may attach reasonable conditions and safe guards as it might deem necessary to implement the purpose of this Ordinance and in the Pennsylvania Municipalities Planning Code (MPC).

**Sections 1811 - 1814 - Reserved for Future Use**

**Section 1815 - Parties Appellant before Zoning Hearing Board**

Appeals under Section 1804. 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 under Section 1810.1 may be filed with the Zoning Hearing Board by

any landowner, equitable owner, or tenant with the permission of such landowner.

**Section 1816 - Time Limitations**

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of the Zoning Ordinance or Zoning Map shall preclude an appeal from the final approval except in the case where the final submission substantially deviates from the approved preliminary approval.
2. All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

**Section 1817 - Stay of Proceedings**

Upon filing of any proceeding referred to in Section 1815 and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board.

Variances. - It is the intent of this Section to provide specific direction for the Zoning: Hearing Board in their responsibility to hear and decide requests for variances. The Zoning Hearing Board may grant a variance provided that all of 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 the 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 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 the 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 in issue.

**PENN TOWNSHIP**  
**100 Municipal Building Road**  
**Duncannon, PA 17020-1100**  
**Township Office 834-5281      Fax 834-6854**

**ZONING HEARING BOARD APPLICATION**

DATE OF COMPLETED APPLICATION: \_\_\_\_\_ DOCKET#: \_\_\_\_\_

APPLICANT \_\_\_\_\_

PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

ATTORNEY: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

INTEREST OF APPLICANT:

(    ) OWNER            ) EQUITABLE TITLE HOLDER (    ) OTHER - SEE ATTACHED

SITE ADDRESS, PARCEL NUMBER~ DESCRIPTION AND PRESENT USE: \_\_\_\_\_

APPLICANT REQUEST:

(    ) VARIANCE (    ) SPECIAL EXCEPTION (    ) APPEAL OF DECISION

REASON FOR REQUEST: \_\_\_\_\_

ZONING:            ( ) AGRICULTURAL/RURAL ( ) FOREST/CONSERVATION ( ) LOW DENSITY  
RESIDENTIAL ( ) HIGH DENSITY RESIDENTIAL ( ) COMMERCIAL ( ) MIXED USE  
COMMERCE DISTRICT ( ) INDUSTRIAL ( ) FLOOD PLAIN OVERLAY ( ) STEEP SLOPE  
CONSERVATION OVERLAY

NAMES AND ADDRESSES OF PROPERTY OWNERS OF RECORD ON ADJOINING ~PROPERTIES  
WITHIN 200 FEET OF THE SUBJECT PROPERTY: (Submit on separate page)

SUBMISSION (    ) PLOT PLAN (    ) SKETCH (    ) PHOTOS (MUST SUBMIT A  
PLOT PLAN OR SKETCH)

STATEMENT OF ACCURACY: *I hereby certify/confirm as the applicant that all of  
the information provided, as part of this application submittal, is complete  
and correct to the best of my knowledge and that the township authority may  
rely upon its accuracy in the course of their review.*

SIGNATURE OF APPLICANT: \_\_\_\_\_

FEE: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

HEARING DATE: \_\_\_\_\_

NOTICES: NEIGHBORS: \_\_\_\_\_ NEWSPAPER: \_\_\_\_\_ POSTED:

\_\_\_\_\_ STENOGRAPHER: \_\_\_\_\_

DECISION: APPROVAL: \_\_\_\_\_ DENIAL: \_\_\_\_\_

CONDITIONS:

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