

ZONING HEARINGS

WHAT EVERY APPLICANT SHOULD KNOW

General Overview on the Application and Hearing Process

General Information

The Zoning Hearing Board (ZHB) has found that many applicants are not familiar with the process for applications before the Board. This information has been prepared to provide residents with a description of the ZHB's jurisdiction and its public hearing process. This provides you with a general overview and is not intended to provide legal advice.

The Pennsylvania Municipalities Planning Code requires that any community enacting a zoning ordinance establish a ZHB to hear and decide zoning applications and appeals.

The ZHB has no legislative power. It can neither make nor modify zoning policy. It is quasi-judicial. The Board consists of three members appointed by the Board of Commissioners. Most matters coming before the Board fall into 3 major categories:

- **Variations** An applicant may request a Variance from the provisions of the ordinance when it is felt that a literal enforcement of the ordinance would create an unnecessary hardship as defined by law, including court decisions, on the applicant's use of the property
- **Special Exceptions** The Board hears and decides requests for Special Exceptions in accordance with the standards and criteria expressed within the ordinance. When the ordinance permits a use "by special exception", this represents that the use generally should be allowed unless it is injurious to the public interest in the particular instance
- **Appeals from Action of the Zoning Officer** Appeals originate when it is claimed that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of the Zoning Ordinance or map or any rule or regulation governing the action of the Zoning Officer.

Application Procedure

To get on a Zoning Hearing Board agenda, a zoning hearing application must be submitted to the County Planning and Zoning Office. **A schedule with application deadlines and hearing dates can be found on the County's website.**

The application must include the required fee and the following:

- The application form and narrative (with every question answered).
- **If the applicant is not the landowner of record, information must be presented (i.e. agreement of sale or lease), to demonstrate that the applicant has the legal right to make the application.**
- If the application is for a non-residential use/structure, the application must also include a site plan which identifies all of the required elements described on the application.

For the application narrative, it is important that **every question** be answered. The questions are derived from the application requirements and standards of review found in the Pennsylvania Municipalities Planning Code and Schuylkill County's Zoning Ordinance.

After Your Application has been Submitted

After your application is submitted, the County Zoning Officer will prepare the Public Notice and distribute it as follows:

- The applicant will be notified that their application is on the agenda with the time, date, and location of the hearing.
- The notice will be advertised in the local newspaper and will state the time and place of the hearing along with the nature of the matter to be discussed.
- The property will be posted. **It is the responsibility of the applicant to make sure that the notice remains until the hearing!**
- The notice will be forwarded to municipality in which the property is located and to the owner of each lot abutting or immediately across the street from the subject lot.

What to Expect at the Hearing

The Hearing is a formal, “court-like” process. Its purpose is to establish facts relative to the application. Therefore, a factual presentation outlining the reasons why a particular application does or does not meet the requirements of the ordinance, why the ordinance creates a hardship in the particular case, and how the proposal will or will not be harmful to public generally should be provided.

Applicants should have an organized presentation. An organized, factual presentation will provide the ZHB with a better understanding of the facts and the concerns of the community. Generally, applicants should expect the following:

Applicant’s Presentation

- The Applicant is called forward by the Chairman to present their case.
- The Applicant or any witness will be sworn in before presenting evidence. A court stenographer will swear in the applicant and any witnesses and will also record all testimony. ZHB members can and will ask questions both during and after examination of the applicant and any witnesses.
- Documents not included with the application (i.e. picture of the property) may be presented at the hearing as long as they do not change or add to the relief requested.
- Parties in opposition to an application also have certain legal rights to participate. The Chairman will allow any interested parties to ask questions of the witness currently on the stand. Questions should relate to the evidence presented. Statements, comments or evidence by the audience are not permitted at this time.
- Additional witnesses can be presented by the applicant for further testimony; otherwise he/she will close his/her case with a summary statement.
- The Chairman will allow anyone in the audience having standing to come forward to make a statement or comment.
- Usually, the record is closed at the end of the hearing and no further information will be considered by the ZHB

The ZHB Decision

While **the ZHB is required to render a decision within 45 days after the date of the last hearing**, in some simple cases, the ZHB may announce a decision the night of the hearing. For most cases, the decision is announced at the beginning of the following month’s hearing. Written decisions are then mailed to all applicants, the attorney representing an applicant, and the municipality in which the property is located. In the cases where the ZHB has denied an application, the applicant may afford themselves of the provisions for appeals to the court as stated in the Pennsylvania Municipalities Planning Code, as amended.