



Fact Sheet

Zoning Hearing Board Procedures

The Zoning Hearing Board (ZHB) is a quasi-judicial body that hears and renders decisions regarding specific types of land use actions. The ZHB functions like a court, although formal court procedures are not necessarily required. The Pennsylvania Municipalities Planning Code (MPC) provides a specific set of rules that must be followed for applications submitted to the ZHB.

The following sections provide a brief outline of information that should be considered before, during, and after applications are reviewed by the ZHB.

Pre-Hearing Requirements

Applications before the ZHB are appropriate only if they fall into one of the specific areas of review for the ZHB as outlined in the MPC. These areas include the following:

- Application for a variance
- Application for a use by special exception
- Substantive challenges to the validity of any land use ordinance
- Challenges to the validity of a land use ordinance that raise procedural questions or allege defects in the process of enactment

- Appeal from Zoning Officer determination
- Appeal from a determination by municipal engineer or zoning officer on the administration of a floodplain ordinance
- Appeal from a determination of any officer or agency regarding a transfer of development rights
- Appeal from a zoning officer's decision on a preliminary opinion
- Appeal from a determination of a zoning officer or municipal engineer on the administration of sedimentation and erosion control or stormwater management

Prior to the hearing, the following items should be completed:

- Required application filed, fees paid, and required information provided by applicant
- ZHB solicitor notified
- Elected officials and appropriate staff notified
- Municipal solicitor notified

Variance Criteria

Did you know that in order to be granted a variance, ALL of the following criteria must be met:

- 1. There are unique physical circumstances or conditions, including irregularity, narrowness, shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and 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.*
- 2. 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 the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
- 3. Such unnecessary hardship has not been created by the applicant.*
- 4. 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.*
- 5. 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.*

Did you know...

- ▶ *Failure to hold a hearing within 60 days of receipt of an application will result in the request being deemed approved.*
- ▶ *Board members are not permitted to communicate directly or indirectly with anyone regarding the issue unless all parties are afforded the opportunity to participate.*

Items to be completed prior to hearing (continued)

- ❑ Hearing scheduled to begin within 60 days of receipt of application; if not, an extension agreed upon in writing (MPC 908(1.2))
- ❑ Hearing advertised pursuant to Public Notice Requirements (MPC 908(1))
- ❑ Written notice conspicuously posted on the affected tract at least one week prior to the public hearing (MPC 908(1))
- ❑ Property owners and interested parties provided written notice of the hearing (MPC 908(1))
- ❑ Packet of information containing the application and all pertinent documents prepared for ZHB members

Conduct of the Hearing

- ❑ Quorum of the ZHB or hearing officer present (MPC 906(a)), if no ZHB quorum, alternate members appointed to hear the case (MPC 906(b))
- ❑ Court stenographer present (MPC 908(7))
- ❑ Written entry of appearance filed by persons who wish to be parties to the application (MPC 908(3))
- ❑ If hearing not complete in one evening, all subsequent hearings scheduled not more than 45 days from the prior hearing (MPC 908(1.2))

- ❑ Applicant presentation completed within 100 days of the first hearing (MPC 908(1.2))
- ❑ Opposition to the application completed within 100 days of the first hearing held after the applicant presentation (MPC 908(1.2))

Post-Hearing

- ❑ Written decision or findings rendered by board or hearing officer within 45 days after the last hearing (MPC 908(9))
- ❑ Written decision or findings personally delivered or mailed to the applicant no later than the day following the date of the decision or findings (MPC 908(10))
- ❑ Written decision accompanied by findings of fact, with conclusions based on the findings (MPC 908(9))
- ❑ ZHB communicates to all interested parties that a decision has been rendered and indicate where it can be reviewed (MPC 908(10))

FOR MORE INFORMATION

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Relevant Statute Referenced:
Pennsylvania Municipalities Planning Code
(Act of 1968, P.L. 805, No. 247, as amended)