

A GUIDE TO ZONING HEARING CASES AND APPROVALS

- *What should be on the application?* The application needs to clearly state the case you are presenting, in a way that presents what you are proposing and also mentions specific sections of the zoning ordinance. A plot plan of the lot at issue should be provided showing all buildings, parking, water and sewer locations. Other information pertinent to the specific application should be provided. For instance, a home occupation request should include a floor plan, a request for a setback variance might need to provide distances from the lot line for the neighboring structures. While borough staff may provide guidance, it is up to the applicant to present a complete application.
- *What is the difference between a special exception and a variance?* A special exception is neither special nor an exception. It is a listed permitted use that has conditions attached. A special exception request is required to appear before the zoning hearing board to ensure the listed conditions are met and there are no other impacts on the community. A variance, however, is a request to be exempt from some of the rules of the zoning ordinance due to a hardship. Our ordinance copies the language of the PA Municipalities Planning Code to state that there are six conditions that must all be met in order to be granted a variance. A summary of those conditions is there must be unique circumstances, no possibility the lot can be developed in conformance with the ordinance, the hardship has not been created by the applicant, the variance will not alter the character of the neighborhood, it is the minimum variance possible and the variance shall comply with the floodplain regulations.
- *Who should present my case?* Many citizens present their own cases. Others have their attorney or engineer present their cases. Some people review their case with their legal advisor and then present the case themselves. If you know the subject matter and are comfortable with public speaking, it would be entirely appropriate to present a simple case yourself.
- *What happens before the hearing?* Public notice is given by running a newspaper ad (twice) in the legal notice section of the local newspaper, a sign is placed in your yard the week before the hearing and postcards may be sent to your immediate neighbors.
- *What happens at the hearing?* You are obligated to present your case to the Board. If you do not present your case the Board may either deny your request or continue the hearing. Once you finish presenting your case, both the public and the Board are entitled to ask questions. Occasionally, the Borough Council may express an opinion or request that conditions be imposed. Once testimony is completed, the Board, while it will often make a verbal determination at that time, may take up to 45 days to provide a written decision.
- *What happens after the hearing if my case is denied?* You may appeal the decision to the Court of Common Pleas. If you wish to appeal, you must do so within 30 days of the date of the written decision.
- *What happens after the hearing if my case is approved?* Affected parties, such as neighbors or the Borough, may appeal the decision of the Board to the Court of Common Pleas within 30 days after the date of the written decision. Additionally, there often are additional approvals to be obtained prior to acting upon the approval you have received from the ZHB. Examples of this would include in-home businesses which are required to obtain building code approval prior to operation, obtaining a building and zoning permit prior to construction or a variance allowing a commercial use would then have to follow the land development process before any construction may begin.