



THE BOROUGH OF EDINBORO

124 Meadville Street
Edinboro, PA 16412-2502
(814) 734-1812 ext. 130 / Fax: (814) 734-4492

ZONING HEARING BOARD APPLICATION FORM FOR PERSON DESIRING APPOINTMENT

1. Name: _____
2. Address: _____
3. Phone: _____
4. E-mail: _____
5. Current or past participation in civic organizations: _____

6. Occupation: _____
7. Have you ever served on a Board or Commission in Edinboro or any other Community?
Yes _____ No _____
If yes, which one _____ where _____
8. Are you willing to be interviewed for this position? Yes _____ No _____
9. What time would be best to meet for the interview _____ A.M. _____ P.M.
10. Please state your reasons for desiring an appointment to the Board:

Signature

Date

Zoning Hearing Board

§27-602. Appointment.

The terms of office of the Board shall be 5 years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough, nor be a member of the Planning Commission. Council shall also appoint one alternate member to the Board. The appointment, rights and duties of the alternate shall be in accordance with Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10901 *et seq.* (*Ord. 457, 1/31/1994, §602; as amended by Ord. 585, 9/12/2011*)

§27-607. Hearings.

The Board shall conduct hearings and make decisions in accordance with the following requirements.

A. Notice shall be given to the public and shall conform to requirements for same contained in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.* In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least 1 week prior to the hearing.

B. The Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the Secretary and members 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 required by the Board.

C. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have 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.

E. The Chairman or acting Chairman of the 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.

F. 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.

G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

H. The 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.

I. The Board or the 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, except that advice from the Board's Solicitor is exempt from this restriction; shall not take notice of any communication, reports, staff memoranda, or other materials 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.

J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Chapter or the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, or any rule or regulation 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 Board shall make his report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this Chapter or the Municipalities Planning Code, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, 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. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within 10 days in

the same manner as provided in §607(1) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10607(1). Nothing in this paragraph shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.

K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board no later than the last day of the hearing, the Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined. (*Ord. 457, 1/31/1994, §607*)

§27-608. Board's Functions.

1. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §§609.1 and 916.1(a) (2) of the Planning Code, 53 P.S. §§10609.1, 10916.1(a)(2).

2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said Chapter. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

3. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

4. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

5. Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the Municipalities Planning Code, 53 P.S. §10910.2 and subsection .8 of this Section.

6. Appeals from the Zoning Officer's determination under §916.2 of the Municipalities Planning Code, 53 P.S. §10916.2.

7. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving Article V or VII applications of the Municipalities Planning Code, §§10501 *et seq.*, 10701 *et seq.*

8. *Variances.* The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. 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 that all of the following findings are made where relevant in a given case:

A. 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, and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

B. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. Such unnecessary hardship has not been created by the applicant.

D. 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.

E. 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. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Chapter.

9. *Special Exceptions.* The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria of this Chapter. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.* [*Ord. 545*] (*Ord. 457, 1/31/1994, §608; as amended by Ord. 545, 2/26/2007, §27-608*)