

Zoning Hearing Board Procedures

What is a Zoning Hearing Board?

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
- 👉 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



Variance Criteria

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.

