



ZONING HEARING BOARD APPLICATION

Please include the following information. An application will be considered administratively incomplete unless or until all necessary documentation is submitted and fee paid in full.

Property Survey **Plans/Drawings** **Written Statement/Narrative**

Type of Matter

- Variance from Section(s): _____
- Determination Appeal from Section(s) _____
- Appeal of Enforcement of Section(s) _____
- Special Exception per Ordinance Section(s): _____
- Change or expansion of nonconforming use, Section(s): _____

Property Covered by Application

Address/Location of Property: _____

Allegheny County Parcel No(s): _____

Zoning District: _____

Applicant

Name(s): _____

Mailing Address: _____

Phone: _____ Fax: _____

Property Owner

Name(s) _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Agent or Representative, (if applicable)

Name _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Legal Counsel (if applicable)

Name: _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Interest in Property

Own Property Date title acquired: _____

Lease Property Term of Lease: _____

To Purchase Date contract: _____

Other Explain: _____

Applicant's Verification

I/We have received the Procedure and Information Guide for Applicants.

I/We verify that the statements made in the foregoing application are true and correct.

Signature _____ Title _____

Print Name _____ Date _____

For Office Use Only

Date Received _____ Date Accepted _____

Filing Fee _____ Hearing Date _____

Legal Advertising Dates _____ Property Posting _____

Zoning Officer Signature _____

Variance

Purpose and Applicability

A variance is relief from a specific provision of the Zoning Ordinance. Zoning Ordinance requirements apply across an entire district. Because each individual property is unique, it is possible that a specific Zoning Ordinance requirement could impact a property in an unequal, unfair or arbitrary manner, i.e. in a way different from other properties in the district. If the Zoning Ordinance imposes an "unnecessary hardship" on the property, as determined by the following five specific criteria, the Zoning Board is permitted to grant a variance.

Please answer the following questions regarding the property:

1. Yes No There are unique or peculiar 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Ordinance in question that are not shared by other properties in the vicinity.

Describe why the property is different from the other properties in the district:

2. Yes No That because of such unique or peculiar physical conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance, and that the authorization of a variance is necessary to enable reasonable use of the property:

Describe why the property cannot be used in conformity with the Ordinance:

3. Yes No That such unnecessary hardship has not been created by the applicant.

Describe how the hardship was created:

4. Yes No That the variance requested, if granted, 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 for public welfare.

Describe how the variance will impact the neighborhood:

5. Yes No That the variance requested represents the minimum variance that will afford relief and will represent the least modification possible of the Ordinance.

Describe why this is the least possible modification to the Ordinance:

Unless the answer is "Yes" to ALL of the above, and evidence in the form of testimony or documentation is provided, the Zoning Hearing Board cannot grant a variance.

**BOROUGH OF WHITEHALL
ZONING HEARING BOARD
PROCEDURE AND INFORMATION GUIDE FOR APPELLANTS**

(Please bring this information to the hearing.)

Introduction

The following information is offered to assist you when making an appeal to the Zoning Hearing Board and should not be considered to be the laws, ordinances, or rules under which the Board must operate.

Please bear in mind that the Board and/or the Borough is in an adversary position to that of the Appellant.

The Zoning Hearing Board is a quasi-judicial body empowered to render interpretations, grant variances, and grant special exceptions to the zoning ordinance of the Borough.

The Board is governed by and operates under the rules and regulations of the following:

- Act No. 247 (as Reenacted and Amended December 21, 1988)
- Code of the Borough of Whitehall
- Rules of Procedure for the Zoning Hearing Board for the Borough of Whitehall.

The idea of zoning ordinances is that there is a public interest in how land is used that transcends the private right of the individual to have complete freedom to do whatever he wishes with his land.

The responsibility of the Zoning Hearing Board is to maintain conformity to the zoning ordinances, safeguard the public interest, and grant individuals reasonable use of their land within the scope of the law.

The Borough Zoning Officer is the enforcement arm of the Board and must follow the literal provisions of the ordinances. He has no discretionary authority.

Any violation of the ordinances may be corrected by the Code Enforcement Officer under the provisions provided by the ordinances; however, the property owner involved may request a hearing before the Board, prior to any further legal action which may be taken.

Application Procedure

The ordinances provide the guidelines under which the Borough Zoning Officer may issue the various permits. A permit request which does not comply with the ordinances must be referred to the Zoning Hearing Board for a decision, if the property owner wishes to proceed with the use,

installation, or construction in question.

The necessary items to make application for a hearing are as follows:

- Building permit application.
- Hearing permit application.
- Current plot plan or survey of property showing main structure, all additions, porch roofs, accessory use buildings, swimming pools, minor garages, fences, signs, air conditioners, etc.
- Drawing for the proposed construction.
- Any other information the Appellant may feel will assist the Board. For example, photographs, brochures, letters from neighbors, etc.
- Hearing permit fee – \$175.00 for residential; \$250.00 for non-residential/commercial.

All of the above items must be filed with the Borough Zoning Officer by the 18th day of the month preceding the hearing date. The Board meets on the third Tuesday of each month. (This date is not mandatory and may be changed.)

All properties scheduled for a hearing must be posted with a notice giving basic information regarding the hearing. The notice must be posted seven (7) days prior to the hearing.

Hearing and Decisions

All hearings before the Board are conducted in a formal manner as in any court of law. The hearing may be conducted by a Hearing Officer appointed by the Board. All persons intending to offer testimony must be sworn in, and all testimony given must be factual and pertinent to the particular case. The Appellant may be represented by legal counsel, if he or she so desires, or any other duly authorized agent. However, the failure of the Appellant or a duly authorized agent of the Appellant to appear for the scheduled hearing, or to request a postponement or continuance of the hearing prior to its scheduled time and date, will result in the denial of the relief requested by the Appellant.

The Board is not permitted to consider financial hardship or personal convenience as a basis for granting a variance or special exception. Also, the Board must reject any testimony concerning conditions alleged for parcels of land or structures other than for the specific land or structure at issue before the Board.

A variance or special exception, if granted, is not granted to the individual making application, but is granted to the parcel of land and exists in perpetuity unless the Board prescribes special conditions to the contrary in the decision.

The law provides that the Board must make its decision within forty-five (45) days of the hearing. Should no decision be made within this forty-five (45) day period, the requested variance or special exception is automatically granted. Further, the Board must make its decision at a public meeting of the Board. The Board may continue any case to the next meeting should it feel that additional

testimony or information is required.

Appeal of the Board's Decision

Any appeal of the Zoning Hearing Board's decision must be presented to the Court of Common Pleas of Allegheny County no later than 30 days after issuance of such decision.

Appeals may be taken to Common Pleas Court by any party before the Board or any officer or agency of the municipality.

The court may reverse, affirm, or modify the decision of the Board.

There is no Borough agency or person, including Borough Council, that has jurisdiction over or the power to change any decision made by the Zoning Hearing Board.

Approved by the Board

Attachment "A" of this Procedure and Information Guide for the Appellants is a sketch which provides location and dimension information which the Board may refer to during the hearing. Please bring Attachment "A" to the hearing for reference.

Attachment "B" of this Procedure and Information Guide for the Appellants is an excerpt from the Code of the Borough of Whitehall and the Pennsylvania Municipalities Planning Code giving the powers, duties, and functions of the Zoning Hearing Board. Please bring Attachment "B" to the hearing for reference. If you're applying for a **VARIANCE**, please pay particular attention to **Page 3 of Attachment "B"**. If you're applying for a **SPECIAL EXCEPTION**, please pay particular attention to **Page 4 of Attachment "B"**.

**RULES OF PROCEDURE
ZONING HEARING BOARD
BOROUGH OF WHITEHALL
ALLEGHENY COUNTY, PENNSYLVANIA**

Upon motion duly made and seconded, the following resolution was adopted on the 21st day of October, 1997, by the Zoning Hearing Board of the Borough of Whitehall.

The following rules and regulations shall govern the procedure of the Zoning Hearing Board in accordance with the terms of Article XXXII of the Code of the Borough of Whitehall and Articles IX and X of Act No. 247 (Reenacted and Amended December 21, 1988, P.L. 1329, No. 170) of the General Assembly of the Commonwealth of Pennsylvania.

1. Meetings of the Board shall be held on the third Tuesday of each month if applications for Appeals are on file. This date is not mandatory and may be changed, when the need arises, to another date more convenient for all concerned.
2. The number of appeals at a meeting shall be limited to four (4), in order to provide adequate time for testimony. However, this number may be exceeded if, in the opinion of the Board, the requested hearings are of such a nature that adequate time may be accorded to testimony. Conversely, should the number of requested hearings form a backlog, due consideration shall be given to meeting more frequently than once a month, for it is not the desire of the Board to create undue delays.
3. The Borough Zoning Officer shall schedule Appeals for the Zoning Hearing Board meetings in the order which the Applications for Appeal Hearings are filed. However, **no** Application for an Appeal Hearing filed after the 18th day of the month shall be scheduled for a hearing prior to the stated meeting in the second succeeding month, unless a majority of the Board agrees that an Appeal may be heard earlier.
4. The Borough Zoning Officer is hereby delegated as the Board's agent for arranging public notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.
5. The Borough Zoning Officer is hereby delegated as the Board's agent for posting notices of an impending hearing at the affected property. Such posting will take place 7 days prior to the hearing date, the date of posting not being counted as one of the seven.
6. The Borough Zoning Officer is hereby delegated as the Board's agent to provide the Appellant, and any other parties in interest upon request, at the time of application for an

appeal hearing with a copy of the Procedure and Information Guide for the Appellants, which are guidelines for Appellants for use in preparing for an appealing at their scheduled hearing. As part of the Procedure and Information Guide, the Appellants are notified that they have the right to be represented by counsel or any other duly authorized agent. However, the failure of the Appellant or a duly authorized agent of the Appellant to appear for the scheduled hearing, or to request a postponement or continuance of the hearing prior to its scheduled time and date, will result in the denial of the relief requested by the Appellant.

7. The agendas for the Zoning Hearing Board meetings shall be prepared and distributed at least ten days prior to the hearing date. Copies of the agenda shall be sent to the Appellants, the Zoning Hearing Board members, the Zoning Hearing Board Solicitor, the Chairman of the Planning Commission, the Borough Solicitor, the Secretary/Manager of the Borough, and the Secretary to the Zoning Hearing Board. A copy of the agenda shall also be posted in the Borough Building.
8. Meetings shall convene at approximately 7:30 p.m., unless otherwise arranged by mutual consent of all concerned.
9. The hearing shall be conducted by the Board or the Board may appoint any member as a Hearing Officer. (Act No. 247, Article IX, Section 908(2) as Reenacted and Amended)
10. The hearings at a meeting shall be held in an order selected by the Chairman (or acting Chairman) of the Board and not necessarily in the order as shown on the agenda.
11. An appeal requested by an Appellant shall not be held by the Board if the application is incomplete, improperly filed, or if the property has not been properly posted.
12. All witnesses giving testimony before the Board shall do so only under oath or affirmation. The name and address of each witness shall be included as an action of the meeting as a record of everyone taking the oath. At the discretion of the Board, the Board may require that all persons who wish to be considered parties before the Board enter Appearances Before the Board in writing on forms provided by the Board.
13. A verbatim transcript of all Appeals and other actions of the meeting shall promptly be made and filed with the Borough Zoning Officer following each meeting.
14. Public notice of the continuance of an Appeal Hearing shall be made at each scheduled hearing for that appeal, and if at that time the Appellant or a duly authorized agent of the Appellant is not present, written notice of the continuance shall be provided as in Item 7, above.
15. It is the intent and policy of the Board to render decisions on Appeals as soon as possible, and prior to the forty-five (45) day limit.

16. The decision on an Appeal shall be rendered in a public meeting of the Board and shall state the reasons therefore. A vote shall be taken of the members regarding the decision, and an affirmative vote by a majority of the members is required. The date of the decision shall be the date of the Zoning Hearing Board meeting at which the decision was made.
17. Notice for the public meeting for the decision shall be given at the hearing meeting on the Appeal. In the event that the Board subsequently changes the time or place for the public meeting for the decision, notice of such a change shall be delivered to the Appellants by hand or certified mail and be posted in the Borough Building at least 24 hours prior to the earlier of the decision meeting times, original or revised.
18. A written copy of the decision, including the reasons and the vote, shall be made and signed by a majority of the members of the Board. Copies of this decision shall be delivered promptly to the Appellants by hand or certified mail. Copies of the decision shall also be distributed promptly to the Zoning Hearing Board members, the Zoning Hearing Board Solicitor, the Chairman of the Planning Commission, the Borough Solicitor, the Secretary/Manager of the Borough, and all other persons who have filed their name and address with the Board at the time of the hearing.
19. In the event the Borough Zoning Officer is unable to perform any duty conferred upon him by these rules because of other business, vacation, illness, or other authorized absence, the Borough Secretary/Manager will act in his place and stead to perform any and all acts covered by these rules.
20. Copies of these rules will be retained in the offices of the Borough Zoning Officer and the Secretary/Manager and are available for inspection to all interested parties.
21. The above-described Rules of Procedure of the Zoning Hearing Board are not intended to limit or restrict the Board from utilizing any or all powers granted to the Board by Article XXXII of the Code of the Borough of Whitehall and by Articles IX and X of Act No. 247 (Reenacted and Amended December 21, 1988) of the General Assembly of the Commonwealth of Pennsylvania.

ZONING HEARING BOARD

Leo G. Daly, Chairman

Mark J. Christman

David W. Thomas