

INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD

The Zoning Hearing Board is a quasi-judicial body appointed by the Township Supervisors, consisting of three (3) residents of the Township. The Board is represented by an attorney who is called the Solicitor to the Board. In general, the Zoning Hearing Board has jurisdiction in only specific areas as set forth in the Municipalities Planning Code which includes certain substantive and procedural challenges to the Township ordinances, appeals from determinations by the Zoning Officer, requests for variances, applications for special exceptions, and interpretations of land use ordinance.

The Zoning Hearing Board, within 60 days after the receipt of an application, will convene a hearing which is advertised in the newspaper, posted on the premises, and mailed to surrounding landowners. While the Zoning Hearing Board is not required to follow the formal rules of evidence in the conduct of its hearings, it generally conducts a rather formal hearing since the law requires the Board to make a stenographic record of the proceeding. Only by insisting upon some formality can the Board keep control of its hearing and produce a meaningful record as required by law.

While it is not required that an applicant or objector retain the services of an attorney to assist in the application or the hearing, each participant must be aware that neither the Zoning Hearing Board, nor its solicitor, can give legal advice to participants; nor will the Board or its solicitor attempt to “represent” or help a participant present its case.

The applicant has the burden to prove the matters asserted in the application which are being offered as justification for granting whatever relief has been requested from the Board. It is essential that applicants understand that they cannot simply come to the Board and expect the Board to tell them what to do. Likewise, the Board is not allowed by law to independently gather evidence or information. The Board is allowed only to hear and receive evidence which is under oath and subject to cross-examination.

Applicants and any persons interested in the application, whether for or against, should be aware that a hearing before the Zoning Hearing Board is not primarily for the purpose of dispensing information, but rather for the Board to receive information and evidence. Therefore, the Board cannot be questioned nor will it respond to questions with regard to how it makes decisions. The Board is much like a court and receives whatever information is presented and renders decisions based upon the information brought to the Board. The Board is not allowed to investigate an application or to otherwise gather information, including a view of the premises in question.

Applicants and other interested persons must be prepared at the time of the hearing to present whatever information or evidence they think is important to the Board's determination and to do so within the confines of a relatively formal judicial proceeding. Experience has taught the Board that it can best meet its legal obligations to remain fair and impartial and create a record if it conducts its hearings more like a court than a town meeting.

Finally, it should be noted by anyone interested in a matter pending before the Zoning Hearing Board that the Zoning Hearing Board is not the same entity as Washington Township. The Township Board of Supervisors is the legislative branch of government which writes the Township laws (ordinances). The Board of Supervisors acting through its appointed employees and officials such as the Zoning Officer, the Sewage Enforcement Officer, the Township Secretary, the Township Engineer, and the Township Solicitor, is also the executive branch of the government. The Zoning Hearing Board may be considered to be a judicial branch of the government which is separate and distinct from the Township. The Zoning Hearing Board does not write or enforce ordinances. The Zoning Hearing Board interprets the ordinances and serves as the initial avenue of appeal from certain determinations by the executive (Zoning Officer) and the legislative (Board of Supervisors) functions when they are acting in the various capacities of adopting and/or enforcing ordinances.

Zoning Hearing Board
Washington Township,
Berks County, Pennsylvania

NOTE: This document is intended as a general information guide for purpose of background regarding the functions and procedures of the Zoning Hearing Board. Do not rely upon this as legal authority or a substitute for legal advice. Furthermore, you should understand that the Zoning Hearing Board reserves the right to exercise its powers and otherwise act to the full extent afforded by the Municipalities Planning Code and the Washington Township Zoning Ordinance.

File No. _____
Date Fully Completed Application Received: _____
Date of First Advertised Hearing: _____
Amount of Fees Paid \$ _____ Receipt No. _____

(Do Not Write Above This Line)

**ZONING HEARING BOARD
TOWNSHIP OF WASHINGTON**

APPLICATION/APPEAL
(File in Triplicate)

I. Applicant (s): _____
Name Name

Address Address

Phone Phone

II. Applicant's Attorney: _____
Name

Address

Phone

III. Request for Hearing:

In accordance with the provisions of Chapter 131 of the Code of the Township of Washington, a hearing before the Zoning Hearing Board is requested in which the applicant (s) will seek an adjudication of the matter (s) indicated below.

IV. Type of Proceeding (s): (check those which apply)

- _____ 1. A Variance is requested to Chapter 131, Section 131-_____, Subsections _____, _____ of the Zoning Code.
- _____ 2. A Variance is requested to Chapter 131, Sections 131-46 and 131-48 relating to uses permitted in a Floodplain Overlay District.
- _____ 3. A Special Exception is requested as allowed in Chapter 131, Section 131-_____, Subsections _____, _____ of the Zoning Code.
- _____ 4. This is an appeal from the determination of the Zoning Officer with respect to the granting, denial or failure to act on an application for a permit.
- _____ 5. This is an appeal from an Enforcement Notice issued pursuant to Section 616.1 of the Pennsylvania Municipalities Planning Code. (Attach a copy of the Enforcement Notice)
- _____ 6. This is a substantive challenge to the validity of a land use ordinance or map, or a provision thereof. (The customary written challenge should be filed with this application)
- _____ 7. This is a challenge to the validity of a land use ordinance raising procedural questions or alleging defects in the process of adoption. (The customary written challenge should be filed with this application)
- _____ 8. Any other appeal from a determination by an officer, body or agency of the Township charged with the administration of any land use ordinance or application thereunder, to the extent that determination is appealable to the Zoning Hearing Board under the Municipalities Planning Code.

V. The Status of the Applicant (s) is: (Check one)

- _____ A. A person who has an interest in land, the use or development of which is prohibited or restricted by an ordinance or map, or a provision thereof. (Landowner must attach a plot plan as set forth in Article IX below)
- _____ B. A person affected by a use or development permitted on the land of

another by an ordinance or map, or a provision thereof.

VI. General Information about the Land:

1. The land involved belongs to:

- A: Record owner(s): _____
- B: Date Purchased: _____
- C: Deed Book _____ Page _____
(attach copy of deed)
- D: Equitable owner (s): _____
- E: Date of Agreement: _____

2. The land is located as follows:

- A. Name of road providing primary access: _____
- B. Which side of road: _____
- C. Identify nearest street intersection and approximate distance and direction: _____

3. The land is configured as follows:

- A. Width at road (frontage): _____
- B. Approximate average width: _____
- C. Approximate average depth: _____
- D. Lot/parcel size: _____

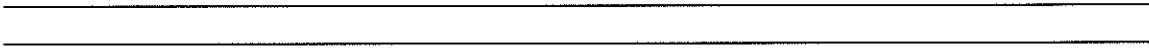
4. Present improvements on the land are: _____

5. Present use is: _____

6. Zoning District (see section 131-6 of Zoning Code): _____

7. Improvements being proposed: _____

8. Proposed Use: _____



VII. Specific Information about this application/appeal:

(Set forth in complete detail what relief you are seeking from the Zoning Hearing Board; a brief summary of the necessary facts to be proved at the hearing; what law or legal theories pertain; what hardship will be shown; which provisions of ordinances or maps are being challenged; what official determination, action, or failure to act is being appealed, etc. Attach additional sheets if necessary.)

VIII. The applicant shall, at the time of submission of an Application/Appeal, provide as

1. If the applicant (s) is the owner of the land in questions, he/she has attached a plot plan showing the location, lot size, dimension, north point, scale, adjoining owners, existing buildings and improvements, and proposed buildings and improvements.
2. The applicant (s) has received and read the document entitled, "Information for Persons Appearing Before the Zoning Hearing Board".
3. The applicant (s) has made a diligent and good faith effort to provide the names and addresses of all adjoining landowners and all landowners and/or residents within 1,000 feet of the boundaries of the land in question and has attached such a list to this application.
4. All the information and statements in this application and any documents or plans filed in this matter are true and correct to the best of the applicant's knowledge, information and belief and applicant (s) understands this verification is made subject to the penalties of 18 Pa. C.S.A. Section 4904 (relating to unsworn falsifications to authorities).

DATE: _____

SIGNED: _____

"I ACKNOWLEDGE IN THE EVENT THAT THE FEE PAID AT DEPOSIT IS NOT SUFFICIENT TO PAY COSTS ALLOWED BY THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, THAT I WILL BE RESPONSIBLE FOR THE PAYMENT OF ANY ADDITIONAL COSTS."

- (1) All accessory structures 200 square feet and less are required to have only a zoning permit. The permit fee shall be: \$50. [Added 4-29-2004 by Res. No. 2004-10; amended 1-3-2005 by Res. No. 2005-6; 1-2-2007 by Res. No. 2007-8]
 - (2) All accessory structures over 200 square feet but less than 500 square feet, excluding private in-ground swimming pools, must have anchorage and shall require only a zoning permit. The permit fee for these structures shall be: \$100. [Added 4-29-2004 by Res. No. 2004-10; amended 1-3-2005 by Res. No. 2005-6; 1-2-2007 by Res. No. 2007-8]
 - (3) A zoning permit is required in conjunction with every material change in the use of land. The zoning permit fee is: \$50. [Added 4-29-2004 by Res. No. 2004-10; amended 1-3-2005 by Res. No. 2005-6; 1-2-2007 by Res. No. 2007-8]
- B. Zoning application fees. [Amended 1-2-2001 by Res. No. 2001-11; 1-6-2003 by Res. No. 2003-12; 1-3-2005 by Res. No. 2005-12]
- (1) Zoning fee schedule.
 - (a) The zoning fee schedule for Washington Township, Berks County, Pennsylvania, shall consist of the following fees:

Type	Fee
Fee to be paid at the time of the filing of an appeal with the Zoning Hearing Board of Washington Township from the refusal of the Zoning Officer to grant a zoning permit and/or a certificate of use and occupancy	\$600.00
Fee to be paid at the time of the filing of unified appeals before the Zoning Hearing Board	\$600.00
Fee to be paid at the time application is made to the Zoning Hearing Board for a variance	\$600.00
Fee to be paid at the time application is made to the Zoning Hearing Board for a special exception	\$600.00
Fee to be paid at the time of filing of challenges to the validity of the Zoning Ordinance ³ or the Official Zoning Map ⁴ before the Zoning Hearing Board	\$1,000.00
Fee to be paid at the time of filing of applications for curative amendments before the Board of Supervisors	\$1,000.00
Fee to be paid at the time of filing an application to the Board of Supervisors for a conditional use	\$600.00

- (b) The fees to be charged shall be used to cover the costs of the compensation for the Secretary and members of the Zoning Hearing Board, notice

3. Editor's Note: See Ch. 131, Zoning.

4. Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

advertising costs, and necessary administrative overhead connected with the hearing. In addition, the fee shall be used to pay for 1/2 of the appearance fee of the stenographer.

- (c) If the applicant appeals the decision of the Zoning Hearing Board to the Court of Common Pleas of Berks County, Pennsylvania, or if the applicant requests an original transcript, the applicant shall be responsible for payment of the cost of the transcript to the stenographer. Similarly, if the Zoning Hearing Board orders a transcript, and the applicant desires a copy of it, the applicant will be responsible for the cost of the copy.
- (2) Fees to be paid by Township. The application fee paid by a zoning applicant shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical Consultants or expert witness costs. These costs shall be paid by the Township. In addition, the Township shall be responsible for payment of 1/2 of the appearance fee of the stenographer.
- (3) Additional costs to be paid by applicant. In the event that any initial fee paid at the time of filing of an appeal application to the Zoning Hearing Board of Washington Township, or to the Board of Supervisors of Washington Township, pursuant to the Washington Township Zoning Hearing Ordinance of 1982, as amended, and amended in its entirety by Ordinance No. 1993-4 in 1993, with subsequent amendments,⁵ is not sufficient to cover the aforesaid expenses incurred in the proceeding, the applicant shall be responsible for all additional costs in excess of \$600 or \$1,000, respectively, that are attributable to the expenses set forth in Subsection B(1)(b). The additional costs shall be paid to the Township within five days after notification from the Township. No permits or authorization pursuant to the Washington Township Zoning Ordinance⁶ shall be issued until all additional fees and expenses have been paid by the applicant.
- (4) Unused application fee to be refunded to applicant. In the event that there is a balance in the account of an applicant after all of the costs and expenses set forth in Subsection B(1)(b) hereof have been paid, the remaining balance in the applicant's account shall be refunded to the applicant.

§ A137-15. Mandated fees. [Added 1-3-2005 by Res. No. 2005-6; amended 1-2-2007 by Res. No. 2007-8]

- A. Act 13 of 2004 Municipal Code Official Training Account fee: \$4.

§ A137-16. Delinquent tax collection schedule of costs to be paid by taxpayer. [Added 2-24-2005 by Res. No. 2005-15; amended 4-28-2005 by Res. No. 2005-16]

The costs assessed the delinquent taxpayer are added to school and municipal tax, penalty and interest as follows:

5. Editor's Note: See Ch. 131, Zoning.

6. Editor's Note: See Ch. 131, Zoning.