

MANOR



BOROUGH

ZONING HEARING BOARD APPEALS

The Zoning Hearing Board hears cases where anyone feels aggrieved by the terms of the ordinance, or the decision and enforcement by the Zoning Officer. It is a Quasi-legal fact finding body. Its function is to hold hearings on request for variances, special exceptions and appeals on decisions enforced by the Zoning Officer.

Applications for an appeal are filed by the property owner at the Manor Borough Zoning Office along with the required fees before the 21st of the month. A public hearing will be scheduled within 60 days. A legal notice of advertisement in a local newspaper will appear during a 2-week period and the affected properties will be posted to notify any affected persons of their right to appear and speak at the open hearing.

All applicants are required to fill the application form in its entirety. The applicant can bring any witness, pictures, drawings, etc., to help their appeal at the hearing.

The Board has up to 45 DAYS to issue a decision.

Any party who appears at the public hearing and is aggrieved by the decision made may file an appeal with the Westmoreland County Court of Common Pleas within 30 DAYS of the Board's decision. It is recommended to wait 30 days after the Board's decision to see if any party files an appeal. On average, allow 2 months to complete the process.



ZONING HEARING BOARD APPLICATION CHECKLIST

▶ Applications for appeal are filed with Borough Zoning Officer (by appointment only). Please call the Manor Borough Zoning Office at 724-864-2525.

▶ Hearing Date: Zoning Hearing Board Meetings are held at 7:00 PM on the second Tuesday of the month at the Manor Borough Community Room, 44 Main Street, Manor PA 15665. Filing deadlines vary. Contact the Manor Zoning Officer for additional details on filing deadlines.

▶ Procedures for obtaining an appeal and an application form are attached.

▶ Filing fees*:

Appeals	\$1,500.00
Variances	\$ 850.00
Special Exceptions	\$1,000.00
Conditional Use	\$1,000.00
Challenges	\$1,000.00

* Plus the cost of advertising and to post property(s).

Check(s) made payable to Manor Borough, must accompany the application.

The following supporting documents should be included but not limited to the following with the application:

▶ One copy of a property survey (lot plan) with the proposed improvements, showing the location of all existing and proposed structures on the property and corresponding distances to the front, side, and rear property lines.

▶ One copy of evidence of ownership of property, or letter from the property owner, granting permission to file an appeal.

▶ You and/or your appointed representative must attend the public hearing to explain your intentions and to answer any questions proposed by the Zoning Hearing Board or interested parties in attendance at the meeting.



ZONING HEARING BOARD APPLICATION FOR APPEAL

Date: _____ Case #: _____

Name: _____

Address: _____

Phone #: _____

The Applicant requests a Hearing before the Zoning Hearing Board to:

- Appeal the Decision of the Zoning Official
- Request a Variance of the Ordinance
- Request a Special Exception of the Ordinance
- Other matters of which the Board has jurisdiction (Explain)

Land/Property/Address of Site involved in the Appeal:

Applicants Petition: I/We request the Zoning Hearing Board grant relief for the following reasons: _____

The applicant should attempt to provide the 5 findings that determine an unnessesary hardship listed on page 2 of the Variance Narrative, if this application is for a variance.

The above information is True and Correct.

Signature of Applicant: _____ Date: _____

OFFICIAL USE: Zoning Official must note ordinance or legislative act involved in the appeal.

Ordinance _____ Article _____ Section _____

Appeal received by: _____ Date: _____

VARIANCES

A Variance is a means of solving the problems created by attempting to apply the general terms of the ordinance to fit the land which is regulated. It is necessary because a zoning requirement could possibly prevent any use of a property if strictly applied. A variance procedure prevents problems in applying general legislation to specific situations. All zoning ordinances contain many detailed pre-set regulations designed to be self-executing. Various setbacks and height limitations are examples of these provisions which omit administrative discretion. Variances as a relief valve for the rigid ordinance.

REQUIREMENTS FOR A VARIANCE

The Zoning Hearing Board hears requests for variances where it is alleged that the provisions of the zoning ordinance 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. Pursuant to MPC section 910.2, the board may grant a variance provided that all of the following findings are made where relevant in a given case:

1. That 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 the zoning ordinance in the neighborhood or district in which the property is located;
2. That 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 that the authorization of a variance is therefore necessary to enable the reasonable use of property;
3. That such unnecessary hardship has not been created by the appellant;
4. That 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; and
5. That 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 purposes of this act and the zoning ordinance.

VARIANCES COMPARED WITH SPECIAL EXCEPTIONS AND CONDITIONAL USES

An application for a variance seeks permission to do something which is not in conformance with or violates the zoning ordinance. A variance is an overriding of the legislative judgment, justified by the existence of "unnecessary hardship." In contrast, an applicant for a special exception does not seek to "vary" the ordinance. The permission the applicant seeks is one envisioned by the ordinance. Accordingly, while an applicant for a variance must show both (a) unnecessary hardship and (b) consistency with the public interest, a special exception or conditional use case generally involves only the latter.

SPECIAL EXCEPTIONS

All zoning ordinances contain provisions or uses which are permitted by right. These are the basic uses which are permitted in the various zoning districts. For example, if a zoning ordinance contains both commercial and industrial zones, a person desiring to locate a shoe store in the commercial district is permitted to do so by right; also, a fabricating plant is free to locate in an industrial zone by right. In both cases, since the zone for these specific uses is established in the zoning ordinance, they are uses permitted by right.

A special exception is a permission or approval granted an applicant to use land in a district for a purpose other than that generally permitted outright in that district. The permission or special exception is granted by the zoning hearing board in accordance with the standards contained in the zoning ordinance, provided generally that the specific application of the use would not prove injurious to the public interest.

It is important to realize that the term "special exception" is a misnomer. It is neither special nor is it an exception. It is not a deviation from the zoning ordinance. An applicant for a special exception is following the zoning ordinance. A special exception is a use envisioned by the ordinance, and, if the express standard and criteria established by the ordinance are met, the use is one permitted by the ordinance.

SPECIAL EXCEPTIONS COMPARED WITH USES PERMITTED BY RIGHT

The difference between a use permitted without qualification and a use permitted by special exception – and it is a significant difference from the point of view of an applicant- is that an applicant for a special exception is subject to the jurisdiction of the zoning hearing board. The function of the board is to determine whether the application is consistent with the public interest as defined in specific standards and criteria established in the ordinance. This generally involves factual determinations, and the board is vested with discretion in evaluating the evidence presented to it. All special exceptions for each zoning district are specifically listed under the provision of each district. If the use an applicant desire is not permitted in the zone by right, and is not specifically listed as a special exception, the application cannot be granted.

WHY INCLUDE SPECIAL EXCEPTIONS?

Special exceptions exist because choosing uses permitted and prohibited for each zone is too narrow for sound planning. Many matters fall in between what is consistent and that which is inconsistent with a zoning classification. Also, there are usually certain uses or activities that might logically be located in certain districts, but that should for one reason or another be very carefully located or controlled. For example, a community may have a low density residential district with a specific use such as a day care center or a bed and breakfast use permitted only as a special exception. An individual wishing to utilize land in this district for such a purpose would have to apply for a special exception. The zoning hearing board would then have the opportunity to thoroughly examine the proposed land to assure that the public interest is not violated and to attach any reasonable conditions or safeguards necessary to implement the purpose of the ordinance. If the use were permitted by right, the zoning officer would not have the opportunity to require any reasonable conditions and safeguards.

It is also customary for non-conforming uses and structures, home occupations and conversion of large single family homes to be regulated under the special exception device. Not that non-conformances violate the ordinance, but are protected by constitutional considerations.

VARIANCE PROCEDURE

