

# ZONING HEARING BOARD PROCEDURES

## NAVIGATING THE ZONING HEARING PROCESS



### 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.

### REASONS FOR A HEARING

ZHBs review applications for specific reasons as outlined in the MPC, including:

- Applications for a variance or a use by special exception
- Challenges to the validity of a land use ordinance, including those raising procedural questions or alleging defects in the enactment process
- Appeals to a determination from a zoning officer, municipal engineer, or agency on preliminary opinions, floodplain determinations, transfers of development rights, or administration of sedimentation and erosion control or stormwater management

### REMINDERS FOR THE BOARD

- If a hearing is not held within 60 days of receiving an application, it is deemed to be approved
- Board members may not communicate directly or indirectly with anyone regarding the issue unless all parties are given the opportunity to participate

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## BEFORE THE HEARING

- Applicant must file application, pay fees, and provide required information
- ZHB solicitor, municipal solicitor, elected officials, and appropriate staff must be notified
- The hearing must be scheduled within 60 days of receipt of the application; if not, an extension must be agreed upon in writing
- The hearing must be advertised per Public Notice Requirements under MPC 908(1)
- Written notice conspicuously posted on the affected tract at least one week prior to the public hearing
- Property owners and interested parties provided written notice of the hearing
- Packet including the application and all pertinent documents prepared for ZHB members

## CONDUCTING THE HEARING

- There must be a quorum of the ZHB or hearing officer present, or alternate members must be appointed to hear the case
- Court stenographer must be present
- Parties to the application must file written entry of appearance
- If hearing not complete in one session, all subsequent hearings must be scheduled within 45 days of the prior hearing
- Applicant presentation must be completed within 100 days of the first hearing
- Opposition to the application must be completed within 100 days of the first hearing held after the applicant presentation

## POST-HEARING ACTION

- ZHB or hearing officer must render a written decision or findings within 45 days of the last hearing
- Within one day of the written decision or findings, they must be personally delivered or mailed to the applicant with the findings of fact and conclusions based on the findings
- ZHB must communicate to all interested parties that a decision has been rendered and indicate where it can be reviewed

## ADDITIONAL RESOURCES

The Governor's Center for Local Government Services provides technical assistance on a variety of planning, land use, and development matters to planning commissions, zoning officers, zoning hearing boards, and other local government officials. For more information visit [dced.pa.gov/planning](https://dced.pa.gov/planning).



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## VARIANCE CRITERIA

To be granted a variance, ALL the following criteria must be met:

- ✓ There is unnecessary hardship created by the unique physical conditions of the property. Physical conditions include irregularity, narrowness, shallowness of lot size or shape or exceptional topographical or other physical conditions that are not created by the provisions of the local zoning ordinance.
- ✓ 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 needed to enable the reasonable use of the property.
- ✓ Such unnecessary hardship has not been created by the applicant.
- ✓ 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.
- ✓ 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.