

Brecknock Township Zoning Hearing Board
889 Alleghenyville Road, Mohnton, PA 19540

Instructions for Submission of Zoning Hearing Board Application/Appeal

1. Application must be filed in duplicate.
2. All applicable sections must be completed in full.
3. A copy of the deed or legal description must be included.
4. A plot plan must be included.
5. The names and addresses of all adjoining property owners must be listed. This includes any properties across public roads that adjoin the property.
6. The application must be signed and notarized.
7. Page 2 of the "Information for persons appearing before the Zoning Hearing Board" must be signed and dated.
8. The fully completed application must be submitted to the Township office along with a check for the application fee in the amount of \$800.00.
9. The fully completed application will be forwarded to the Zoning Hearing Board's solicitor who will proceed with scheduling a hearing.
10. Any questions should be directed to the Township office.

INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD

The Zoning Hearing Board is a quasi-judicial branch of the local government 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 only has jurisdiction in specific areas as set forth in Section 909.1(a) of the Municipalities Planning Code (MPC). The Board's jurisdiction can, in general, be summarized as including the following matters: certain substantive and procedural challenges to Township ordinances; appeals from certain decisions of the Zoning Officer, requests for variances, special exceptions, and review of interpretations of land use ordinances by Township officials. Copies of the provisions of the MPC relating to variances and special exceptions are attached.

After an application is complete and filed and the fee is paid, the Zoning Hearing Board must convene a hearing within 60 days. The hearing is advertised in a local newspaper and posted on the premises. At the hearing, the applicant must present evidence in support of his petition and anyone with legal standing to participate in the hearing will also be given a similar opportunity. The Applicant has the burden of proof to show that the applicant is legally entitled to the relief requested. 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, and generally to file a written decision. The formal proceedings help the Board to provide a fair opportunity for all participants to make their positions known, and this results in an opportunity for everyone to present evidence and for the Board to render decisions based on the law and all the relevant facts.

Corporations are required to be represented by an attorney licensed in the Commonwealth of Pennsylvania. While it is not required for individuals, it is recommended that an applicant or objector retain the services of an attorney to assist in the application and the hearing. Neither the Zoning Hearing Board nor its solicitor can or will give legal advice; nor will the Board or its solicitor attempt to help a participant prepare or present the case.

An applicant must be aware that it is the applicant's 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. The applicant simply cannot come to the Board and expect the Board to tell them what to do. Likewise, it is not the Board's function to gather evidence or information. The Board will only receive evidence which is under oath and subject to cross-examination.

Applicants and any persons interested in the application, whether for or against it, should be aware that a hearing before the Zoning Hearing Board is not for the purpose of dispensing information, but rather for the Board to receive information and evidence. Therefore, the Board cannot be questioned, will it respond to questions regarding how it thinks, etc. The Board is constituted much like a court and is to receive information presented to it and to render a decision based upon the information brought to the Board. The Zoning Hearing Board is not permitted to communicate with any party in connection with any matter before the Board except as part of the hearing process itself.

Applicants and other interested persons, whether in favor or against the application, 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 meaningful record only if it conducts its hearings more like a court than like 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 as the Township. Township government has three branches, as does most levels of government. 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 the executive branch of the government. The Zoning Hearing Board can be the judicial branch of the government which is separate and distinct from the other branches. The Zoning Hearing Board has nothing to do with writing ordinances or with the enforcement of ordinances. The Zoning Hearing Board can only apply ordinances to factual situations in accordance with the jurisdiction provided for under state law.

Applicants acknowledge receiving a copy of this document and Sections 910.2 and 912.1 of the MPC.

Date: _____

Amount of Fees Paid: \$ 800.00 Receipt No.: _____

IV. (continued)

- ___ 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. (Attach a copy of the determination.)
- ___ 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 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 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 Pennsylvania Municipalities Planning Code.

V. **The Status of the Applicant(s):** (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 VIII 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. **Real Estate Information:**

A. The land involved is currently owned by:

- 1. Record owner(s): _____
- 2. Date purchased: _____
- 3. Deed Book _____ Page _____ (Must attach copy of deed or legal description)
- 4. Equitable owner(s) if any: _____
- 5. Date of agreement: _____

B. Property location:

- 1. Name of road providing primary access: _____
- 2. Which side of road: _____
- 3. Identify nearest street intersection and approximate distance and direction: _____

VI. (continued)

C. Dimensions and improvements:

1. Width at road (frontage): _____
2. Approximate average width: _____
3. Approximate average depth: _____
4. Lot/parcel size: _____

D. Present improvements on the land are: _____

E. Present use is: _____

F. Zoning district (accurate reference to Brecknock Township zoning districts required). This parcel is located in the following category:

- () RR – Rural Residential
- () LDR - Low Density Residential
- () CA – Conservation/Agricultural
- () RC – Rural Conservation
- () NCV – Neighborhood Commercial/Village
- () GC – General Commercial
- () OBC – Office/Business Campus
- () LI – Light Industrial
- () SE – Sexually Oriented Business Overlay District

G. Buildings and/or Use Proposed: _____

VII. Nature of Request:

Describe in detail the relief requested and the reasons for this application. Attach additional sheets if necessary.

VIII. Interested Parties:

You must list the names and correct mailing address of **ALL** owners of property that adjoin the real estate in question. (Attach additional sheets if necessary.)

IX. Certification:

By signing this application, the applicant(s) certifies/certify as follows:

- A. If the applicant(s) is/are the owner(s) of the land in question, he/she/they has/have attached a plot plan showing the location, lot size, dimensions, north point, scale, adjoining owners, existing buildings and improvements, and proposed buildings and improvements.
- B. The applicant(s) has/have received and read the document entitled "Information for Persons Appearing Before the Zoning Hearing Board".
- C. 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(s') knowledge, information, and belief.

Date:

SWORN TO AND SUBSCRIBED

BEFORE ME THIS

 DAY

OF

 , 20

 .

Notary Public