



# Zoning Hearing Board Application

Submission:

- Submit 11 full sets of whole application/complete packets.
- Check due at drop off made out to East Fallowfield Township for \$1,500.

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Check All Applicable Requests for Hearing:

\_\_\_\_\_ Request for Variance                      \_\_\_\_\_ Challenge to Validity of Zoning Ordinance  
\_\_\_\_\_ Request for Special Exception                      \_\_\_\_\_ Appeal from Decision of Zoning Officer

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**Subject Property Address:** \_\_\_\_\_

Tax Parcel #: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Name of Property Owner(s): \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Email: \_\_\_\_\_

Name of Applicant (if not owner): \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Email: \_\_\_\_\_

Interest of Applicant: \_\_\_\_\_  
(ex. Tenant, equitable owner under agreement of sale, etc.)

Consultant/Attorney/Representative

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Email: \_\_\_\_\_



1. State the present use of the property which is the subject of this application: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. State the proposed use of the property which is the subject of this application: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. State the section(s) of the Zoning Ordinance under which the Hearing is being requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Please describe the grounds for the application (attach additional explanations on a separate sheet if necessary):
  - a. If a request for a variance, please set forth the variances requested and the hardship to support the granting of such variances: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
  - b. If a request for a special exception, please identify the proposed special exception, including the applicable section(s) of the Zoning Ordinance: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
  - c. If this is an appeal from a determination of the Zoning Officer, what was the determination, and what is the error alleged?: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
  - d. If a challenge to the validity of the Zoning Ordinance, please specify the Section(s) of the Zoning Ordinance claimed to be invalid and the grounds for such alleged invalidity: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5. The following are additional requirements for all **special exception** requests:  
*(include 7 copies of each of the following)*
- a. Written report providing all of the information required by Chapter 27 – Zoning, Part 22, §27-2203. Applications for Hearings
  - b. Listing of names and addresses of adjoining property owners, including properties directly across a public right-of-way.
  - c. Ground floor plans and elevations of proposed structures.
  - d. A scaled site plan with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of the Zoning Ordinance. Please note that photographs are helpful to the reviewer. Show all the following *(if applicable)*:
    - i. a dimensions and number of parking spaces
    - ii. proposed/existing front yard setback from the property line with distance shown
    - iii. proposed/existing side yard setback from the property line with distance shown
    - iv. proposed/existing rear yard setback from the property line with distance shown
    - v. location and size of building(s)
    - vi. size of area to be used for storage use, warehouse use, work space or any other use of applicable facilities that may be helpful in reviewing the application
    - vii. driveway location, dimensions, and material
    - viii. sign location and dimensions
    - ix. dumpster location and method of screening
    - x. lighting location(s), type, size, and height
    - xi. lot lines
    - xii. clear sight triangle(s)
    - xiii. any other information that would be helpful in the review process.
  - e. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of the Zoning Ordinance, including the following:
    - i. each of the Specific Criteria attached to the requested special exception as listed in Chapter 27 – Zoning, Part 22, §27-2207. Jurisdiction and Functions;
    - ii. the Zone requirements in which the subject property is located (ex. setbacks, lot area, lot width, lot coverage, height, landscaping, etc.);
    - iii. the General Provisions requirements listed in the Zoning Ordinance (ex. vehicular access, off-street parking and loading, signs, screening and landscaping, etc.);
    - iv. for expansion or alteration of nonconforming uses, each of the criteria listed in



- Chapter 27 – Zoning;
- v. for substitution or replacement of nonconforming uses, those criteria listed in Chapter 27 – Zoning;
  - vi. for special exceptions proposed in the Floodplain Zone, those regulations contained in the Zoning Ordinance; and
  - vii. each of the General Criteria listed in the Zoning Ordinance.
- f. Signs: If the applicant anticipates erecting a sign, the sign information must be submitted with the paperwork for this hearing. Signs must be approved by the Zoning Hearing Board at the hearing.
6. The following are additional requirements for all **variance** requests:  
*(include 7 copies of each of the following)*
- a. A written description of the proposed use in sufficient detail to demonstrate compliance with each of those criteria listed in Chapter 27 – Zoning, Part 22, §27-2207. Jurisdiction and Functions;
  - b. Listing of names and addresses of adjoining property owners.
  - c. A scaled site plan with sufficient detail and accuracy to depict the nature of the request and reflect its relationship with adjoining properties, and their improvements. Please note that photographs are helpful to the reviewer. Show all the following *(if applicable)*:
    - i. dimensions and number of parking spaces
    - ii. proposed/existing front yard setback from the property line with distance shown
    - iii. proposed/existing side yard setback from the property line with distance shown
    - iv. proposed/existing rear yard setback from the property line with distance shown
    - v. location and size of building(s)
    - vi. size of area to be used for storage use, warehouse use, work space or any other use of applicable facilities that may be helpful in reviewing the variance application
    - vii. driveway location, dimensions, and material
    - viii. sign location and dimensions
    - ix. dumpster location and method of screening
    - x. lighting location(s), type, size, and height
    - xi. lot lines
    - xii. clear sight triangle(s)
    - xiii. any other information that would be helpful in the review process.
  - d. For use variances, a written report and scaled site plan demonstrating compliance with all applicable provisions of the Zoning Ordinance including the following:
    - i. the Zone requirements in which the subject property is located (ex, setbacks, lot area, lot width, lot coverage, height, landscaping, etc.);



- ii. the General Provisions requirements listed in the Zoning Ordinance (ex. vehicular access, off-street parking and loading, signs, screening and landscaping, etc.)
7. This application is not complete until the fee established for such applications by ordinance or resolution of the East Fallowfield Township Board of Supervisors has been paid by Applicant and all information required by this application has been furnished. The hearing fee is \$1,500. (all checks should be made payable to "East Fallowfield Township".)
8. In making this application, the Applicant agrees to pay all fees required by the fee schedule adopted by the East Fallowfield Township Board of Supervisors by ordinance or resolution in effect on the date of the application.
9. Applicant agrees to post a sign(s) (provided by the Township) at conspicuous locations along the perimeter of the subject properly sufficient to notify potentially interested citizens of the zoning hearing. The sign(s) shall be posted continuously at least one week prior to the date of the hearing. Applicant agrees to return the sign(s) to the East Fallowfield Township Municipal Building on the night of the hearing.
10. If the application is approved, Applicant, in accordance with Chapter 27 – Zoning, Part 22, §27-2208. Expiration of Special Exception and Variance, will have six (6) months from the date of such approval to apply for and secure a zoning permit and commence the authorized construction. All authorized construction must be completed within twelve (12) months from the date of such approval. Should the applicant fail to obtain the necessary permits within said six (6) month period, or having obtained the permit should he fail to commence work thereunder within said six (6) month period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board. Should the applicant commence construction or alteration within said six (6) month period, but should he fail to complete such construction or alteration within said twelve (12) month period, the Board may upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the applicant, if the Board finds that a good cause appears for the failure to complete within such twelve (12) month period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.

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**BY SIGNING THIS APPLICATION, I, THE APPLICANT, DO HEREBY VERIFY THT I HAVE REVIEWED AND UNDERSTAND THE STATEMETNS MADE IN THIS APPLICATION AND THAT ALL SUCH STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THESE STATEMENTS ARE BEING GIVEN BY ME TO INDUCE OFFICIAL ACTION ON THE PART OF THE EAST FALLOWFIELD TOWNSHIP ZONING HEARING BOARD, AND I UNDERSTAND**



**THAT ANY FALSE STATEMENTS MADE HEREIN ARE BEING MADE SUBJECT TO PENALTIES OF 18 PA. C.S. §4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.**

\_\_\_\_\_  
Signature of Applicant\*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name as Signed Above

*(\*If the application is being made by a person other than the property owner, attach a written authorization from the owner consenting to the application and designating you as his agent.)*

**FOR ADMINISTRATION USE ONLY:**

Date Received: \_\_\_\_\_

Received By: \_\_\_\_\_

Clock Date: \_\_\_\_\_

Total Cost: \_\_\_\_\_

Date Advertised (2 successive weeks no more than 30 days and no less than 7 days before the hearing)

First Date: \_\_\_\_\_

Second Date: \_\_\_\_\_

Property Posting (at least one week before hearing)

Completed by: \_\_\_\_\_

Date Posted: \_\_\_\_\_

Date of Hearing (within 60 days of application) \_\_\_\_\_

Date of Decision (within 45 days of last hearing) \_\_\_\_\_

Decision: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman Signature

\_\_\_\_\_  
Secretary Signature

\_\_\_\_\_  
Member Signature

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## Part 22

### Zoning Hearing Board

#### **§27-2201. Establishment and Membership.**

There shall be a Zoning Hearing Board in accordance with the provisions of Article IX of the Municipalities Planning Code, Act 247, as amended, 53 P.S. §10901 et seq.

- A. The Zoning Hearing Board shall consist of three members who shall be appointed by resolution of the Board and who shall be residents of the Township.
- B. The Zoning Hearing Board shall designate one such member to serve until the first day of January following the effective date of this Chapter, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Shall appoint their successors on the expiration of their respective terms to serve 3 years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant.
- C. Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause by majority vote of the Board of Supervisors which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing will be held in connection with the vote if the member shall request it in writing.
- D. The members of the Zoning Hearing Board shall hold no other office in the Township.

*(Ord. 2002-06, 11/11/2002, §2201)*

#### **§27-2202. Organization.**

- 1. The Zoning Hearing Board shall elect, from its members, its officers, who shall serve annual terms as such and may succeed themselves.
- 2. For the conduct of any public hearing and the taking of any action, quorum shall not be less than a majority of all the members of the Zoning Hearing Board, but the Zoning Hearing Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board, as provided in



§27-2206 below.

3. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure consistent with the provisions of this Chapter and the laws of the Commonwealth.
4. The Zoning Hearing Board shall keep full public record of its business, which records shall be property of the Township, and shall submit a report of its activities to the Board of Supervisors; as requested.

*(Ord. 2002-06, 11/11/2002, §2202)*

**§27-2203. Applications for Hearings.**

1. Applications for hearings before the Zoning Hearing Board shall be filed with the Zoning Hearing Board or their designee, together with the proper fee.
2. An application for a special exception or variance from the terms of this Chapter shall state:
  - a. The name and address of the applicant.
  - b. An application for a special exception or variance from the terms of this Chapter shall state:
    - i. A brief description and location of the real estate to be affected by such proposed change.
    - ii. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
    - iii. A statement of the section of this Chapter under or from which the exception or variance requested may be authorized, and reasons why it should be granted.
    - iv. A reasonably accurate description of the present improvements and the additions intended to be made under the application or appeal, if any, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached, a plot plan to scale of the real estate to be affected, indicating the location and size of the lot and size of improvements now erected and proposed to be erected thereon.
    - v. Any additional information as may be otherwise required by this Chapter.
3. Applications for other than special exception, or variance from terms of this Chapter shall contain sufficient written information to fully describe the intended use. Where, in the sole discretion of the Zoning Officer, it is inappropriate for the applicant to furnish plans and/or specifications, or any other relevant information incident to intended use, such information shall be required to be submitted with the application.
4. In the event that any required information is not furnished, the application shall be refused and the fee returned to the applicant.
5. The hearing before the Zoning Hearing Board or Hearing Officer shall be held within 60 days from the date of receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Zoning Hearing Board or Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to in writing or on the record by the applicant. Any party aggrieved by the schedule or progress of the hearings may appeal to the Court of Common Pleas for judicial relief. The hearing shall be completed no later than 100 days after the completion of the applicant's case-in-chief, unless extended for good cause upon application to the Court of Common





Pleas. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least 7 hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

*(Ord. 2002-06, 11/11/2002, §2203)*

**§27-2204. Notice of Hearings.**

The Zoning Hearing Board shall give notice as follows:

- A. By publishing a notice thereof in a newspaper of general circulation within the Township once a week for 2 successive weeks, not less than 7, nor more than 30 days prior to the hearing.
- B. By mailing notice thereof to the applicant and to any person who has made timely request for the same. In addition, said notice of said hearing shall be conspicuously posted on the affected tract of land at least 1 week prior to the hearing.
- C. By mailing notice thereof to the Township Zoning Officer, to the Chairman of the Township Board of Supervisors and to the Chairman of the Township Planning Commission.
- D. The Zoning Hearing Board may mail notice thereof to the owner of every lot on the same street within 500 feet of the lot or building in question on every lot not on the same street within 200 feet of said lot building. But failure to give notice, either in part or in full, as stated by this paragraph, shall not invalidate any action taken by the Zoning Hearing Board.
- E. The notice herein required shall state the name of the applicant, the location of the lot or building and the general nature of the question involved, and the date, time, and location of the hearing. In addition thereto, when a hearing is required under §27-2206, the notice shall state that the validity of the Chapter or map is in question and shall note that copy of the landowner's request, including plans and proposed amendments may be examined by the public at the Township during regular business hours.

*(Ord. 2002-06, 11/11/2002, §2204)*

**§27-2205. Expenditures for Services; Fees.**

1. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for, secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors.
2. The applicant before the Zoning Hearing Board shall deposit with the Treasurer of the Township, such a sum of money as set forth in the fee schedule adopted by resolution of the Boards of Supervisors to pay for the cost of the hearing.



3. The following administrative costs incurred by the Township relative to hearings before the Zoning Hearing Board shall be paid from the application filing fee:
  - a. Cost of preparation of required notices.
  - b. Cost of mailing notices, including postage.
  - c. Cost of advertising.
  - d. Cost of posting notice or verification.
  - e. Duplication or copying costs.
  - f. An equal share of the court reporter's attendance fee.
  - g. Cost of stenographic record, if such record is requested by the Zoning Hearing Board or the applicant.
  - h. Other costs related to the application.
4. Continued Hearings and Collection of Fees.
  - a. In the event more than one hearing is necessary on any application, as promptly as may be possible following the initial hearing, the Zoning Hearing Board shall determine the total amount of all costs incurred, and shall deduct same from the application fee. In the event the application is, at any time, insufficient to cover the costs incurred or reasonably anticipated to be incurred, the Zoning Hearing Board shall notify the applicant, provide the applicant with a written copy of each item, and shall require the applicant to pay, within 10 days of such notification, any balance then due; together with a further minimum deposit of one-half of the initial filing fee. In the event of multiple hearings, all costs shall be reported and collected in accordance with this procedure.
  - b. The failure of the Zoning Hearing Board to demand additional deposits from time to time shall not relieve the applicant of liability for costs, charges, expenses, and fees in excess of deposit; and in the event of default, such shall be recovered by such action as is by law provided.
  - c. All funds deposited by the application excess of the actual cost of the hearing or hearings shall be returned to the applicant upon completion of the proceeding.

*(Ord. 2002-06, 11/11/2002, §2205)*

#### **§27-2206. Hearings.**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Hearings of the Zoning Hearing Board shall be held at the call of the Chairman and at a reasonable time and place for public hearings notification of said hearing shall be provided as set forth in §27-2204.
- B. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member or an independent attorney as the Hearing Officer. The decision, or where no decision is called for, the findings, shall be made by the Zoning Hearing Board, however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the Hearing Officer as final.



- C. The parties to the hearing shall be any person who is entitled to notice under §27-2204 without special request therefor, who has made timely appearance of record before the Zoning Hearing Board and any other person permitted to appear by the Zoning Hearing Board.
- D. The Chairman or acting chairman of the Zoning Hearing Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- E. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence, to argue and to cross-examine adverse witnesses on all relevant issues.
- F. Formal rules of evidence shall not apply, but irrelevant, immaterial, unduly repetitious and hearsay evidence shall be excluded and other inadmissible evidence may be excluded at the discretion of the Zoning Hearing Board.
- G. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- H. The Zoning Hearing Board or the Zoning Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issued involved, except upon notice of any communication, reports, staff memoranda, or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative after the commencement of the hearing, unless all parties are given an opportunity to be present.
- I. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall render a written decision, or, when no decisions called for, make written findings on the application within 45 days after the last hearing before the Zoning Hearing Board or Hearing Officer.
  - i. Each decision shall be accompanied by findings and conclusions based thereon; together with the reasons therefor. Conclusions based on any provisions of this Chapter or of any act, rule, or regulation, shall contain a reference to the provision relief was granted upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
  - ii. If the hearing is conducted by the Hearing Officer and there has been no stipulation that this decision or findings are final, the Zoning Hearing Board shall make its report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of its findings, and the decision of the Zoning Hearing Board shall be entered no later than 30 days after the report of the Hearing Officer.
  - iii. Except for substantive challenges filed under §916.1 of the Municipalities Planning Code, 53 P.S. §10916.1, where the Zoning Hearing Board fails to render a decision within the 45-day period required by this clause; fails to hold a hearing within 60 days from the applicant's request, unless the applicant has agreed or shall agree in writing to an extension of time; or fails to complete the required hearing as provided in §27-2203.5, the decision shall be deemed to have been



rendered in favor of the applicant.

- J. A copy of the final decision, or where no decision is called for, of the findings; shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide, by mail or otherwise, brief notice of the decisions or findings and a statement of the place at which the full decision or findings may be examined.

*(Ord. 2002-06, 11/11/2002, §2206)*

**§27-2207. Jurisdiction and Functions.**

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - a. Substantive challenges to the validity of this Chapter, except those brought before the Board of Supervisors pursuant to §609.1. "Procedure for Landowner Curative Amendments," and §916.1(a)(2), "Challenge to Validity of Ordinance," of the Municipalities Planning Code, Act 247, as amended, 53 P.S. §§10609.1, 10916.1(a)Q).
  - b. Challenges to the validity of this Chapter raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of this Chapter. Where the ordinance appealed from is the initial zoning ordinance of the Township and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  - c. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, or the registration or refusal to register any nonconforming use, structure, or lot.
  - d. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of Part 15, "Flood Hazard District," of this Chapter.
  - e. Applications for variances from the terms of this Chapter pursuant to §910.2 of the Municipalities Planning Code, Act 247, as amended, 53 P.S. §10910.2.
  - f. Applications for special exceptions under this Chapter pursuant to §912.1 of the Municipalities Planning Code, Act 247, as amended, 53 P.S. §10912.1.
  - g. Appeals from the Zoning Officer's determination, under §916.2, "Procedure to Obtain Preliminary Opinion," of the Municipalities Planning Code, Act 247, as amended, 53 P.S. §10916.2.
  - h. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this Chapter, or provision thereof, with reference to sedimentation and erosion control and stormwater management, insofar as the same relates to development.
2. *Variances.*
  - a. The Zoning Hearing Board shall hear and decide requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship on the applicant. The Zoning Hearing Board may by rule prescribe the form of application, as provided by §27-2102, "General Permit Regulations." The Zoning Hearing Board



may grant a variance, provided the following findings are made, where relevant, in a given case:

- i. 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 this Chapter in the neighborhood or district in which the property is located.
  - ii. 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 this Chapter and that the authorization a variance is therefore necessary to enable the reasonable use of the property.
  - iii. That such unnecessary hardship has not been created by the applicant.
  - iv. That the variance, if authorized, will neither 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.
  - v. That authorization of variances in the Flood Hazard District shall be consistent with the requirements of §27-1508 of this Chapter.
  - vi. 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.
- b. In granting any variance, the Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter.
3. *Special Exceptions.* The Zoning Hearing Board shall hear and decide requests for special exceptions where this Chapter has stated special exceptions are to be granted pursuant to the following express standards and criteria, in addition to such other considerations and determinations as may be required by the Municipalities Planning Code, Act 247, as amended, 53 P.S. §10101 et seq., and other provisions of this Chapter. The Zoning Hearing Board shall:
- a. Give full consideration to the size, scope, extent, and character of the exception desired and assure itself that such request is consistent with the plan for future land use in East Fallowfield Township and with the spirit, purpose, and intent of this Chapter.
  - b. Take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed change or modification, if permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.



- c. Consider the public interest in, or the need for the proposed use or change that determines that the proposal will serve the best interest of the Township, the convenience of the community (where applicable) and the public health, safety, and general welfare.
- d. Make certain that the proposed change is reasonable in terms of the logical, efficient, and economical extension of public services and facilities including, but not limited to, public water and sewer, police and fire protection, transportation, and public schools.
- e. Be guided in its study, review, and recommendations by sound standards or subdivision practice, where applicable.
- f. Review the recommendations of the Planning Commission on the proposed development plan, where such plan is required. The Zoning Hearing Board shall not be bound by such recommendations, nor shall the Zoning Hearing Board be bound by the action of the Board of Supervisors in relation to the development plan.
- g. Guide the development of highway frontage insofar as possible so as to limit the total number of access points, reduce the need for on-street parking and encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the highways.
- h. Consider, where pertinent, the effects of the proposal, with respect to congestion on the roads or highway, the most appropriate use of land, conserving the value of buildings, safety from fire, panic, and other dangers, adequacy of light and air; the prevention of overcrowding of land; congestion of population and adequacy of public and community services and determine that approval of the application will not have a substantially adverse effect thereon.
- i. Be assured that the natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of stormwater, the provisions of water or sewer service, and any other alterations to the site's pre-development conditions shall be consistent with Township goals, practices, and plans in these regards, and that demand for water and energy by the proposed, use shall be minimized to the optimal extent.
- j. Impose such conditions, in addition to those required as are necessary to assure that the intent of this Chapter is complied with, and which are reasonably necessary to safeguard the health, safety, morals, and general welfare of the residents of the Township at large, and the residents and owners of the property adjacent to the area in which the proposed use is to be conducted. Conditions may include, but are not limited to, harmonious design of buildings, aesthetics, hours of operation, lighting, in accordance with §27-1809, "Lighting," of this Chapter, numbers of persons involved, and performance standards, in accordance with §27- 1810, "Performance Standards."
- k. Special Conditions. In addition to conforming with the general standards above, and all other applicable regulations contained in this Chapter, the proposed special exceptions shall conform with all conditions for that use as given in Part 17.

*(Ord. 2002-06, 11/11/2002, §2207)*



**§27-2208. Expiration of Special Exception and Variance.**

Unless otherwise specified by the Zoning Hearing Board, a special exception or variance shall expire if the applicant fails to obtain a building permit or a use and occupancy permit, as the case may be, within 6 months from the date of authorization thereof.

*(Ord. 2002-06, 11/11/2002, §2208)*

**§27-2209. Parties Appellant Before the Board.**

An appeal to the Zoning Hearing Board under §§27-2207.1.A, .B, .C, .D, .G, and .H may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under §27-2207.2 and for a special exception under §27-2207.3 may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

*(Ord. 2002-06, 11/11/2002, §2209)*

**§27-2210. Time Limitations.**

1. No person shall be allowed to file any proceeding to the Zoning Hearing Board later than 30 days after an application for development, preliminary or final; has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves, that he had no notice, knowledge, or reason to believe that such approval had been given:
  - a. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
  - b. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to §709 of the Municipalities Planning Code (MPC), Act 247, as amended, 53 P.S. §10709, or from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or Zoning Map pursuant to §916.2 of the MPC, 53 P.S. §10916.2, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
2. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

*(Ord. 2002-06, 11/11/2002, §2210)*

**§27-2211. Stay of Proceedings.**

1. Upon filing of any proceeding referred to in §27-2209, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order, or approval of the Zoning Officer, or of any agency or body, and all official action thereunder, shall be stayed, unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property. In such case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.
2. When an application for development, preliminary or final, has been duly approved and



proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court have jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. Where such a petition is presented, the procedures outlined in §915.1(b), (c) and (d) of the Municipalities Planning Code, 53 P.S. §10915.1(b), (c) and (d) shall apply.

*(Ord. 2002-06, 11/11/2002, §2211)*

**§27-2212. Appeals.**

Any person aggrieved by any decision of the Zoning Hearing Board, or any taxpayer or any officer of the Township may, within 30 days after any decision of the Zoning Hearing Board, appeal to the Court of Common Pleas of Chester County.

*(Ord. 2002-06, 11/11/2002, §2213)*