

BOROUGH OF SWARTHMORE

ZONING HEARING BOARD APPLICATION & INSTRUCTIONS

A. GENERAL INFORMATION

The Zoning Hearing Board is an interpretive, quasi-judicial panel appointed by Borough Council. The panel consists of five voting members and one or more alternates who normally do not vote. The Board hears requests for variances from requirements of the Swarthmore Borough Zoning Code as well as other types of zoning appeals. The Zoning Hearing Board meets as needed on the fourth Tuesday of every month.

A variance is a request for the Zoning Hearing Board to permit something that is not otherwise allowed by the Borough's Zoning Code. **Such approval requires the demonstration of a hardship, as defined by criteria set forth in the Pennsylvania Municipalities Planning Code (MPC).** To comply with the law, the applicant must show 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.
- 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 the property.
- The 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 or ordinance in issue, and, in granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

The applicant should use the questions provided on the application to specify the hardship that they believe entitles them to relief from the Zoning Hearing Board.

An application fee of \$300.00 must accompany each application. Checks should be made payable to the "Borough of Swarthmore". The application must be notarized.

B. THE APPLICATION

The completed application, including the notarized form, application fee and all required additional materials must be filed by the applicant by 5:00 p.m. by the third Thursday of the month **prior** to the expected hearing date (for example, an application submitted by the third Thursday of January would be scheduled before the Zoning Hearing Board in February). In most cases, the

owner of record of a property is the applicant, but an equitable owner (such as someone who has executed a contract to purchase a property) may also apply for a variance. A lessee of a property may submit an application only if they are specifically authorized to exercise the rights of a landowner under the lease.

The application must include sixteen (16) copies of a plot plan, drawn to scale. The plot plan must show the dimensions of all existing and proposed buildings and other structures located on the property and their location relative to the property lines. Photographs of the property may be helpful to show areas and features that can not readily be depicted on the plot plan.

One copy of the property deed must also be included with the application. In cases where the applicant is not the legal owner of the property, the application must include a copy of an agreement of sale or lease.

The Borough will provide you with a form to notify adjacent property owners of your variance request. Proof of the required notification must be submitted to the Borough office at least ten days prior to the scheduled hearing. Additionally, the Borough will publish a legal notice in *The Swarthmorean* on two occasions prior to your hearing date and post your property with a zoning notice.

Each application will be reviewed at a public meeting of the Planning and Zoning Committee of Borough Council to discuss whether Council might want to appear at the zoning hearing to present its position relative to the application. The Planning and Zoning Committee normally meets the fourth Wednesday of the month.

C. THE HEARING

The applicant must always attend the meeting of the Zoning Hearing Board at which their variance request will be heard. Applicants will be sworn in by either the Board solicitor or the court reporter¹, if one is present, and will then be given an opportunity to present evidence to the Board as to why a variance should be granted. Applicants may present photographs and additional drawings believed to be helpful to the case. Letters of support or testimony from affected neighbors on your behalf are also permitted.

In addition to the applicant's testimony and evidence, any interested party may appear before the Zoning Hearing Board to ask questions and to make comments appropriate to the matter being heard.

While the decision to grant or deny the variance is typically made at the conclusion of the hearing, the Zoning Hearing Board has forty-five (45) days to render its decision on an application. Decisions of the Zoning Hearing Board may be appealed to the Court of Common Pleas.

The recipient of a variance must commence work or other affirmative action within one year of the date the variance is granted. The variance granted stays in effect even if ownership of the property changes.

¹ Most applicants may sign a waiver from the requirement for a court reporter. In these cases, the hearing will be taped and a transcript made only if necessary.

WAIVER OF COURT REPORTER
FOR ZONING HEARING

I/we, Applicant(s) herein do hereby waive the requirement of the Pennsylvania Municipalities Planning Code that the Swarthmore Zoning Hearing Board stenographically record the zoning hearing proceedings for my/our zoning application. In lieu of the stenographic recording of the zoning hearing proceedings, I/we agree that the zoning hearing proceedings before the Zoning Hearing Board on my/our application may be taped recorded at no charge to me/us.

Should we decide not to waive the requirement, we will be responsible for one-half the cost of attendance of the court reporter as well as the transcripts, if required.

The Borough may, at its discretion, mandate the use of a court reporter.

Signature(s)

