



ZONING HEARING BOARD APPLICATION

Please include the following information. An application will be considered administratively incomplete unless or until all necessary documentation is submitted and fee paid in full.

☐ **Property Survey** ☐ **Plans/Drawings** ☐ **Written Statement/Narrative**

Type of Matter

- ☐ Variance from Section(s): _____
- ☐ Determination Appeal from Section(s) _____
- ☐ Appeal of Enforcement of Section(s) _____
- ☐ Special Exception per Ordinance Section(s): _____
- ☐ Change or expansion of nonconforming use, Section(s): _____

Property Covered by Application

Address/Location of Property: _____

Allegheny County Parcel No(s): _____

Zoning District: _____

Applicant

Name(s): _____

Mailing Address: _____

Phone: _____ Fax: _____

Property Owner

Name(s) _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Agent or Representative, (if applicable)

Name _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Legal Counsel (if applicable)

Name: _____

Mailing Address: _____

Phone: _____ Fax: _____

Applicant's Interest in Property

☐ Own Property Date title acquired: _____

☐ Lease Property Term of Lease: _____

☐ To Purchase Date contract: _____

☐ Other Explain: _____

Applicant's Verification

☐ I/We have received the Procedure and Information Guide for Applicants.

☐ I/We verify that the statements made in the foregoing application are true and correct.

Signature _____ Title _____

Print Name _____ Date _____

For Office Use Only

Date Received _____ Date Accepted _____

Filing Fee _____ Hearing Date _____

Legal Advertising Dates _____ Property Posting _____

Zoning Officer Signature _____

Variance

Purpose and Applicability

A variance is relief from a specific provision of the Zoning Ordinance. Zoning Ordinance requirements apply across an entire district. Because each individual property is unique, it is possible that a specific Zoning Ordinance requirement could impact a property in an unequal, unfair or arbitrary manner, i.e. in a way different from other properties in the district. If the Zoning Ordinance imposes an "unnecessary hardship" on the property, as determined by the following five specific criteria, the Zoning Board is permitted to grant a variance.

Please answer the following questions regarding the property:

1. ☐ Yes ☐ No There are unique or peculiar 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Ordinance in question that are not shared by other properties in the vicinity.

Describe why the property is different from the other properties in the district:

2. ☐ Yes ☐ No That because of such unique or peculiar physical conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance, and that the authorization of a variance is necessary to enable reasonable use of the property:

Describe why the property cannot be used in conformity with the Ordinance:

3. ☐ Yes ☐ No That such unnecessary hardship has not been created by the applicant.

Describe how the hardship was created:

4. ☐ Yes ☐ No That the variance requested, if granted, 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 for public welfare.

Describe how the variance will impact the neighborhood:

5. ☐ Yes ☐ No That the variance requested represents the minimum variance that will afford relief and will represent the least modification possible of the Ordinance.

Describe why this is the least possible modification to the Ordinance:

Unless the answer is "Yes" to ALL of the above, and evidence in the form of testimony or documentation is provided, the Zoning Hearing Board cannot grant a variance.

**BOROUGH OF WHITEHALL
ZONING HEARING BOARD
PROCEDURE AND INFORMATION GUIDE FOR APPELLANTS**
(Please bring this information to the hearing.)

Introduction

The following information is offered to assist you when making an appeal to the Zoning Hearing Board and should not be considered to be the laws, ordinances, or rules under which the Board must operate.

Please bear in mind that the Board and/or the Borough is in an adversary position to that of the Appellant.

The Zoning Hearing Board is a quasi-judicial body empowered to render interpretations, grant variances, and grant special exceptions to the zoning ordinance of the Borough.

The Board is governed by and operates under the rules and regulations of the following:

- Act No. 247 (as Reenacted and Amended December 21, 1988)
- Code of the Borough of Whitehall
- Rules of Procedure for the Zoning Hearing Board for the Borough of Whitehall.

The idea of zoning ordinances is that there is a public interest in how land is used that transcends the private right of the individual to have complete freedom to do whatever he wishes with his land.

The responsibility of the Zoning Hearing Board is to maintain conformity to the zoning ordinances, safeguard the public interest, and grant individuals reasonable use of their land within the scope of the law.

The Borough Zoning Officer is the enforcement arm of the Board and must follow the literal provisions of the ordinances. He has no discretionary authority.

Any violation of the ordinances may be corrected by the Zoning Officer under the provisions provided by the ordinances; however, the property owner involved may request a hearing before the Board, prior to any further legal action which may be taken.

Application Procedure

The ordinances provide guidelines under which the Borough Zoning Officer may issue the various

permits. A permit request which does not comply with the ordinances must be referred to the Zoning Hearing Board for a decision, if the property owner wishes to proceed with the use, installation, or construction in question.

The necessary items to make application for a hearing are as follows:

- Building permit application.
- Hearing permit application.
- Current plot plan or survey of property showing main structure, all additions, porch roofs, accessory use buildings, swimming pools, minor garages, fences, signs, air conditioners, etc.
- Drawing for the proposed construction.
- Any other information the Appellant may feel will assist the Board. For example, photographs, brochures, letters from neighbors, etc.
- Names and addresses of owners of property within 200 feet from the exterior limits of the property involved in the appeal as shown by the latest assessment roll of Allegheny County.
- Hearing permit fee – \$175.00 for residential; \$250.00 for non-residential/commercial.

All of the above items must be filed with the Borough Zoning Officer by the 18th day of the month preceding the hearing date. The Board meets on the third Tuesday of each month. (This date is not mandatory and may be changed.)

All properties scheduled for a hearing must be posted with a notice giving basic information regarding the hearing. The notice must be posted seven (7) days prior to the hearing.

Hearing and Decisions

All hearings before the Board are conducted in a formal manner as in any court of law. The hearing may be conducted by a Hearing Officer appointed by the Board. All persons intending to offer testimony must be sworn in, and all testimony given must be factual and pertinent to the particular case. The Appellant may be represented by legal counsel, if he or she so desires, or any other duly authorized agent. However, the failure of the Appellant or a duly authorized agent of the Appellant to appear for the scheduled hearing, or to request a postponement or continuance of the hearing prior to its scheduled time and date, will result in the denial of the relief requested by the Appellant.

The Board is not permitted to consider financial hardship or personal convenience as a basis for granting a variance or special exception. Also, the Board must reject any testimony concerning conditions alleged for parcels of land or structures other than for the specific land or structure at issue before the Board.

A variance or special exception, if granted, is not granted to the individual making application, but is granted to the parcel of land and exists in perpetuity unless the Board prescribes special conditions to the contrary in the decision.

The law provides that the Board must make its decision within forty-five (45) days of the hearing. Should no decision be made within this forty-five (45) day period, the requested variance or special exception is automatically granted. Further, the Board must make its decision at a public meeting of the Board. The Board may continue any case to the next meeting should it feel that additional testimony or information is required.

Appeal of the Board's Decision

Any appeal of the Zoning Hearing Board's decision must be presented to the Court of Common Pleas of Allegheny County no later than 30 days after issuance of such decision.

Appeals may be taken to Common Pleas Court by any party before the Board or any officer or agency of the Borough.

The court may reverse, affirm, or modify the decision of the Board.

There is no Borough agency or person, including Borough Council, that has jurisdiction over or the power to change any decision made by the Zoning Hearing Board.

Approved by the Board

Attachment "A" of this Procedure and Information Guide for the Appellants is a sketch which provides location and dimension information which the Board may refer to during the hearing. Please bring Attachment "A" to the hearing for reference.

Attachment "B" of this Procedure and Information Guide for the Appellants is an excerpt from the Code of the Borough of Whitehall and the Pennsylvania Municipalities Planning Code giving the powers, duties, and functions of the Zoning Hearing Board. Please bring Attachment "B" to the hearing for reference. If you're applying for a **VARIANCE**, please pay particular attention to **Page 3 of Attachment "B"**. If you're applying for a **SPECIAL EXCEPTION**, please pay particular attention to **Page 4 of Attachment "B"**.

Following are the names and addresses of property owners within 200 feet of the exterior limits of the property involved in this appeal as shown by the Department of Real Estate of the County of Allegheny.

Owner's Name

Address

[illegible][illegible]