



City of Hermitage

Mercer County, Pennsylvania

ZONING HEARING BOARD APPLICATION

(application fee is ~~\$1000~~)

\$500

APPLICANT INFORMATION (please print or type on all lines)

Name of Applicant: _____

Applicant's Address: _____

Applicant's Phone Number: _____

What is the applicant's interest in the premises affected: _____

If not owner, indicate interest: _____

Does the property owner consent to the request? ☐ Yes ☐ No

PROPERTY INFORMATION

Location of Subject Property: _____

Zoning District of Subject Property: _____

PROVISION(S) OF THE HERMITAGE ZONING ORDINANCE APPEALED

Section: _____ Paragraph: _____ Section: _____ Paragraph: _____

Section: _____ Paragraph: _____ Section: _____ Paragraph: _____

Section: _____ Paragraph: _____ Section: _____ Paragraph: _____

TYPE OF APPEAL

- ☐ A) Appeal from any order, requirement decision, or determination made by the Zoning Officer
- ☐ B) Variance from the provisions of the Hermitage Zoning Ordinance
- ☐ C) To authorize use by Special Exception
- ☐ D) Challenge the validity of the Hermitage Zoning Ordinance
- ☐ E) Appeal the Zoning Officer's determination with reference to any floodplain or flood hazard conditions
- ☐ F) Other

REMARKS ON PROPOSED USE

Has any previous appeal been filed in connection with these premises? ☐ Yes ☐ No

Appeal Number(s)

VARIANCE REQUIREMENTS

Under Section 910.2 of the Pennsylvania Municipalities Planning Code and Section 608(8) of the Hermitage Zoning Ordinance, no variance shall be granted until the applicant has established and the Zoning Hearing Board has made all of the following findings (A through E) where relevant in a given case:

☐ **A) Unnecessary hardship due to physical circumstances**

608(8)(a) That there are unique physical circumstances, 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 Ordinance in the neighborhood or district in which the property is located.

☐ **B) Unique physical circumstances hinder property development**

608(8)(b) 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 Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable USE of the property.

☐ **C) Unnecessary hardship not created by applicant**

608(8)(c) That such unnecessary hardship has not been created by the applicant

☐ **D) Character of the neighborhood will not change**

608(8)(d) That 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 of DEVELOPMENT of adjacent property, nor be detrimental to the public welfare.

☐ **E) Appeal represents the least modification possible**

608(8)(e) 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

Applicant **MUST** provide and attach a narrative to this application including information on grounds for appeal and reasons both with respect to law and fact for granting the appeal, special exception, and/or variance. If hardship is claimed, state the specific hardship.

☐ **CHECK HERE THAT NARRATIVE IS ATTACHED**

Applicant is required to submit **seven (7) copies of this application** along with **seven (7) copies of the plat or site plan** showing location of lot, size of improvements now erected or proposed to be erected, proposed use or other change desired, together with any other information as required by the Zoning Hearing Board. All items must be received with this application. The City of Hermitage will notify all property owners within a 200' radius of the subject parcel by written notice of date, time, and location of applicant's hearing.

The Zoning Hearing Board is a quasi-judicial body empowered to render interpretations, approve special exceptions, and grant variances to the Hermitage Zoning Ordinance. The City staff has no discretionary authority over situations that do not comply with the ordinances and must refer these to the Zoning Hearing Board, upon application, for decision. The City recommends that you seek legal assistance, and you may hire an attorney to represent you and present your case to the Zoning Hearing Board.

I certify that the information contained herein is true and correct.

Applicant Signature

Date

ADMINISTRATIVE USE ONLY

Dates Hearing Advertised: _____

Date Posted at Site: _____

Date of Hearing: _____



City of Hermitage

Mercer County, Pennsylvania

ZONING HEARING BOARD RULES AND REGULATIONS

The following Rules and Regulations shall apply to all cases coming before the Board

- (1) The appeal or other requests shall be typed or printed in ink upon forms provided by the Zoning Officer, and shall be signed and dated by the Appellant or Applicant. It, together with required supporting documents and plans, shall be filed with the Zoning Officer.
- (2) No person having an interest or his representative shall communicate directly or indirectly with the Zoning Hearing Board in connection with any issue involved in the pending case, except upon notice and opportunity for all parties to participate.
- (3) All Appeals and Requests shall be made and presented in accordance with the Pennsylvania Municipalities Planning Code, as amended, and the Hermitage Zoning Ordinance, as amended, copies of which shall be made available for examination to the public by the Zoning Officer.
- (4) Any person having an interest in the case may testify at the hearing, but no person, except the Appellant or Applicant, shall be afforded the opportunity to present evidence or argument, or to cross-examine adverse witnesses, unless that person shall have become a party.
- (5) Any person having an interest in the case wishing to become a party shall file an Entry of Appearance in writing upon a form provided by the Zoning Officer. The Entry of Appearance shall be filed with the Zoning Officer prior to the time scheduled for the hearing.
- (6) A party MUST BE PRESENT at the hearing to present evidence or argument. Furthermore, any party may be represented by legal counsel.
- (7) Formal rules of evidence shall not be mandatory, but irrelevant, immaterial or repetitious evidence may be excluded.
- (8) The Zoning Hearing Board may limit each witness to one opportunity to testify, unless the proposed additional testimony is rebuttal in nature.
- (9) Notice of the Decision of the Zoning Hearing Board shall be sent according to law to the Applicant or Appellant and to persons having filed an Entry of Appearance. Any other persons desiring Notice of the Decision shall request same in writing files with the Zoning Officer not later than the last day of the hearing.

These Rules and Regulations adopted this

4

day of

January

, 20

12

[Signature]
[Signature]
[Signature]

Chairman

Secretary

Member



City of Hermitage

Mercer County, Pennsylvania

GUIDE TO ZONING HEARING BOARD APPLICATION PROCESS

PRIOR TO HEARING

Once the applicant has submitted a complete application to the Zoning officer, City staff will begin processing the application. Applicant is encouraged to submit any information (photos, surveys, prior Pennsylvania case law) that may be beneficial towards presentation of their appeal.

It is very important to make sure that the applicant has listed all items that he/she are requesting the Board to render decisions about. Once the legal notice has been published, should the applicant wish to add additional items to the request, there will be a delay in the hearing date due to advertising requirements as prescribed by the Pennsylvania Municipalities Planning Code. It is highly recommended that all applicants consult with their own legal counsel to prepare an accurate and comprehensive application submission to help avoid possible delays.

City staff will distribute the application and supplemental information to Board members prior to the scheduled hearing date. A legal notice will appear in the Sharon Herald generally the two Wednesdays prior to the scheduled hearing date. City staff will also place a posting of the legal notice at the subject property approximately two (2) weeks prior to the scheduled hearing date. Copies of the legal notice will be sent to all property owners within 200' of the subject parcel as a courtesy. Persons interested in becoming parties to the hearing must complete an Entry of Appearance form.

DURING THE HEARING

On the scheduled hearing date, the applicant (or his/her representative) must present their case before the Board. Applicants are encouraged to bring any witnesses or additional documentation they feel may help their argument. Remember, it is the Applicants responsibility to demonstrate to the Board the merits of their appeal, and therefore must have sufficient testimony for the Board to render a decision. Failure to do so may result in an unfavorable decision for the applicant. Again, it is recommended that the applicant consult legal counsel for advice. All interested persons will be afforded the opportunity to speak, ask questions, etc., within discretion as determined by the Board. Persons providing testimony are required to be sworn in.

Generally, the Board will render a decision the night of the hearing, although the Board may announce that it will reconvene on another date to render its decision.

AFTER THE HEARING

The Board's decision is effective immediately, and if successful the applicant may proceed with application for any permits necessary for their proposed project (subject to all applicable City regulations). The Board will produce a written decision, complete with Findings of Fact, within forty-five (45) days of the verbal decision date (generally the date of the hearing). The date on the written decision commences a thirty (30) day appeal period in which any aggrieved person may file an appeal in the Mercer County Court of Common Pleas. Certified letters will be sent to all persons who completed an Entry of Appearance for, in addition to all applicants and legal counsel.

Applicants should be aware that should they choose to proceed with their project before the end of the appeal period that they do so at some risk that the decision of the Board could be overturned by a higher court. Before proceeding with construction, all necessary permits must be secured and a Save Harmless form must be completed by the applicant.

The City will provide assistance when possible and appropriate, but it is the Applicant's duty to present their case to the satisfaction of the Hermitage Zoning Hearing Board. The City strongly recommends you consult your own legal counsel for advice on how to proceed with preparation of your appeal.



City of Hermitage

Mercer County, Pennsylvania

ENTRY OF APPEARANCE FOR CASE #

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APPEAL OF: _____

TO: HERMITAGE ZONING HEARING BOARD

Please enter my appearance in the above captioned case so that I may be afforded the opportunity by myself or through my counsel to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.

DATE: _____

NAME: _____

ADDRESS: _____

PHONE: _____