

**ZONING HEARING BOARD – NOTICE OF APPEAL APPLICATION
BOROUGH OF BOYERTOWN, BERKS COUNTY, PENNSYLVANIA**

Instructions for preparing this form:

A. All questions which apply to your appeal/application should be answered fully. If all questions are not answered the appeal/application will be returned to the applicant.

B. If you need more space use blank sheets, include paragraph numbers with your answers that correspond to this form.

C. An original and six (6) copies of the appeal/application must be filed with the Borough Manager of the Borough of Boyertown at the Borough of Boyertown Municipal Building, 100 South Washington Street, Boyertown, PA 19512.

D. Photos or other exhibits are useful to the Zoning Hearing Board and are encouraged to be attached to this appeal/application. Similarly, plans of the property including lot dimensions and locations of buildings, both planned and present, should be included with the appeal/application. Six (6) copies of the photographs, exhibits, and/or plans need to be filed with the appeal/application.

E. The appeal/application must be signed and the affidavit must be executed before a notary public or Magisterial District Judge. The Consent of the owners, where applicable, should also be completed.

F. Applications/appeals together with the required filing fee as established by the Borough Council of the Borough of Boyertown shall be submitted to the Borough Manager of the Borough of Boyertown along with the required number of copies. Applications/appeals are not deemed accepted and the time limit on the commencement of hearings does not begin to run until a complete application/appeal along with all necessary copies and the filing fee are received. The date this application/appeal is considered filed shall be the date noted below and not the date the application/appeal was completed or notarized.

**THIS NOTICE OF APPEAL/APPLICATION HAS BEEN RECEIVED BY ME
THIS ____ DAY OF _____, 20__.**

Borough Manager

GENERAL INFORMATION

The following information is provided as a guide to applicants who are unfamiliar with Zoning Hearing Board procedures. The information does not replace the text of the Zoning Ordinance. Articles 111 and 112 of the Boyertown Borough/Colebrookdale/Pike Townships Joint Zoning Ordinance contain the specific provisions regarding the Zoning Hearing Board.

INTRODUCTION

The Zoning Hearing Board is a three-member “quasi-judicial” body; the hearing will be formal, but not as formal as a judge’s courtroom. The hearing will be advertised, each person who speaks will be sworn in, and the hearing will be recorded by a stenographer.

The Board will have its own solicitor at the hearing. You are not required to hire an attorney, although you may choose to have an attorney, planner, engineer or other representative to assist you or speak on your behalf.

At the hearing you will be expected to provide information and make arguments in support of your application. Different types of applications require different information. Read the sections of the Zoning Ordinance which are pertinent to your application.

VARIANCE ARTICLE 111.D.3

The Board shall hear requests for variances to specific provisions of this Ordinance that are filed with the Municipal staff in writing. The Board may grant a variance only within the limitations of State Law. As of the adoption date of the Ordinance, the Municipalities Planning Code provided that all of the following findings must be made, where relevant:

- 1) 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 Ordinance in the neighborhood or district in which the property is located.
- 2) 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 a variance is therefore necessary to enable the reasonable use of the property.
- 3) Such unnecessary hardship has not been created by the appellant.
- 4) 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.
- 5) 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.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Ordinance.

SPECIAL EXCEPTION ARTICLE 111.D.4

The Board shall hear and decide requests for all special exceptions filed with the Municipalities Staff in writing. The Board shall only permit a special exception that is authorized by the Ordinance. See Section 116.

In granting a Special Exception the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes and intent of the Ordinance.

The Special Exception Process is designed to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.

When Special Exceptions are allowed by the Ordinance the Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with the standards established by the ordinance, including the following:

- Compliance with this Ordinance. The applicant shall establish by credible evidence that the application complies with all applicable requirements of this Ordinance. The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate this compliance.
- Compliance with Other Laws. The approval may be conditioned upon proof of compliance with other specific applicable municipal, state and federal laws, regulations and permits. Required permits or other proof of compliance may be required to be presented to the Municipality prior to the issuance of any zoning permit, building permit, certification of occupancy and/or recording of an approved plan.
- Traffic. The applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion, after considering any improvements proposed to be made by the applicant as a condition on approval.
- Site Planning. The application shall include proper site layout, internal circulation, parking, buffering, and all other elements of proper design as specified in this Ordinance.
- Neighborhood. The proposed use shall not substantially harm any adjacent residential neighborhood, after considering any proposed conditions upon approval.
- Safety. The proposed use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.

In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of this Ordinance. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the building permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this ordinance.

Appellant/Applicant (Name and Address) _____

Owner (Name and Address) _____

Attach Deed Evidencing Ownership

Interest of Appellant/Applicant if not Owner

Attach the written authority from the owner, or the consent from the owner, or the controlling documents such as the Lease, or Agreement, that allows the appellant/applicant to make this application.

Check the type of relief you are seeking:

___ Appeal from determination of municipal officer or an appeal from a zoning violation

___ Application for variance from Zoning Ordinance

___ Application for special exception provided for in Zoning Ordinance

___ Substantive or procedural challenge to Zoning Ordinance

1. Brief description of real estate affected:

Location _____

PIN# _____

Lot Size _____

Present Use _____

Present Zoning Classification _____

Improvements on land since (year Zoning initiated) _____

2. Answer the subpart of this question appropriate to your application/appeal:

(a) If a variance or special exception is requested, give the Sections of the Zoning Ordinance from which relief is desired, the nature of the relief you want, and the reasons why you feel the relief should be granted.

(b) If this is an appeal from the ruling of an administrative officer, state the ruling that has been made against you and why you feel the ruling is wrong. (Please also attach a copy of the ruling.)

(c) If this is a substantive or procedural challenge to the validity of the Zoning Ordinance, please provide in detail the grounds for such a challenge.

3. Describe the changes or improvements you intend to make to the property if the relief you request is granted.

NOTE: Attach seven (7) copies of the plan of the premises covered by this appeal, including on the plan the lot dimension, location of any buildings or structures now erected, and indicate those contemplated if the requested relief is granted.

STATE OF PENNSYLVANIA:

COUNTY OF BERKS:

_____ being duly sworn according to law,
depose and say that the facts set forth in the foregoing Appeal/Application are true and correct to
the best of their knowledge, information and belief.

SWORN TO and SUBSCRIBED before me this ____ day of _____, 20__.
