

**PLAINS TOWNSHIP
ZONING HEARING BOARD
APPLICATION FOR APPEAL AND HEARING**

Please review Item 10 of the application to follow. If the required information is not included, the application cannot be accepted.

Along with the appropriate application (s), the applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record of *properties which have a common side yard, rear yard and opposite frontage of subject property*. Names and addresses are to be based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Plains Township Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

SECTION 1509 VARIANCES

1509.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1509.2 PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. 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.

2. 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. 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 or development of adjacent property, nor be detrimental to the public welfare.
5. 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.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1510 SPECIAL EXCEPTIONS

1510.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance.
2. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
3. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1510.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses shall be referred to the Planning Commission for their review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.

2. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
3. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.
4. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
5. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.
6. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

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Questions or Additional Information: Call Zoning Officer 570-829-3439 EXT 4141

APPEAL NUMBER: _____

1. ADDRESS OF SUBJECT PROPERTY

2. ZONING DISTRICT IN WHICH THE PROPERTY IS LOCATED: _____
(If uncertain leave blank or contact the Zoning Officer)

3. OWNER'S NAME, ADDRESS and PHONE NUMBER:

4. APPLICANT'S NAME, ADDRESS and PHONE NUMBER (OR IF SAME AS OWNER, WRITE SAME BELOW)

5. DESCRIBE PRESENT USE OF LAND AND/OR STRUCTURE(S)

6. DESCRIBE PROPOSED USE OF LAND AND/OR STRUCTURE, (OR IF SAME AS PRESENT USE WRITE SAME BELOW)

7. TYPE OF APPEAL:

- A. VARIANCE - SECTION 1509 OF THE ZONING ORDINANCE
- B. SPECIAL EXCEPTION - SECTION 1510 OF THE ZONING ORDINANCE
- C. REVIEW OF DECISION OF ZONING OFFICER RE: SECTION 1508
SUBSECTION: C, D, AND/OR G.
- D. A VALIDITY CHALLENGE BASED UPON SUSTANTIVE GROUNDS
PER SECTION 1508, SUBSECTION A.
- E. A VALIDITY CHALLENGE BASED UPON PROCEDURAL GROUNDS
PER SECTION 1508, SUBSECTION B.

8. BASED UPON THE ABOVE INDICATED ITEMS, SPECIFICALLY STATE THE NATURE OF YOUR REQUEST, APPEAL AND/OR CHALLENGE TO THE ZONING HEARING BOARD. INCLUDE THE SEPCIFIC SECTIONS OF THE ORDINANCE. ATTACH ADDITIONAL SHEETS IF NECESSARY

9. SPECIFICALLY STATE THE GROUNDS BASED UPON THE ZONING ORDINANCE AND/OR ANY OTHER RELATED OR APPROPRIATE GROUNDS WHICH CAN SUPPORT AND OR SUSTANTIATE THE REQUEST APPEAL AND/OR CHALLENGE CONTAINED IN THIS APPLICATION. ATTACH ADDITIONAL SHEETS IF NECESSARY.

10. THE FOLLOWING MUST BE ATTACHED TO ALL APPLICATIONS:

- A. COPY OF ZONING PERMIT APPLICATION
- B. NAMES AND MAILING ADDRESSES OF ADJOINING AND ADJACENT PROPERTY OWNERS
- C. PROOF OF INTEREST IN PROPERTY: DEED OR SALES AGREEMENT
- D. PAYMENT (\$250 RESIDENTIAL; \$400 COMMERCIAL)
(Cost of hearing does not include price of transcript)

11. **IF APPLICANT IS NOT THE CURRENT OWNER, A NOTARIZED STATEMENT AUTHORIZING APPLICANT TO ACT ON OWNER'S BEHALF IN THE MATTER OF THIS APPEAL MUST BE PRESENTED WITH APPLICATION.**

Application cannot be processed if any of the information requested is not provided/attached.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF OWNER

DATE

FOR TOWNSHIP USE

- A. ZONING PERMIT APPLICATION INDICATING DENIAL
- B. DATE OF WRITTEN REQUEST FOR HEARING _____
- C. HEARING NUMBER _____ & DATE _____
- D. DATES OF PUBLICATION _____
- E. DECISION _____ & DATE OF DECISION _____