

ZONING HEARING BOARD OF THE
BOROUGH OF WYOMISSING,
BERKS COUNTY, PENNSYLVANIA

APPLICATION/APPEAL

I Identification of Applicant:

A. Name of Applicant: _____

B. Address of Applicant: _____

Telephone Number of Applicant: _____

D. Facsimile Number of Applicant: _____

2. Identification of Property Owner:

A. Name of Owner: _____

C. Address of Owner: _____

E. Telephone Number of Owner: _____

F. Facsimile Number of Owner: _____

3. Identification of Applicant's Representative:

A. Name of Representative: _____

C. Address of Representative: _____

E. Telephone Number of Representative: _____

G. Facsimile Number of Representative: _____

For Borough use only:

Date application/appeal accepted for processing: _____

Amount of deposit received/check number: _____

4. Identification of Property:

A. Street address: _____

B. Recorder's reference: Deed Book Volume _____ Page _____

C. Property area: _____ square feet or _____ acres

E. Property dimensions: Width: _____ feet Depth: _____ feet

F. Property improvements: _____

H. Zoning district of property: _____

5. Identification of Applicant's interest in property:

_____ Owner of record

_____ Equitable owner

Tenant

Landowner affected by use or development permitted on the property of another by an ordinance or map or provision thereof

6. Identification of Relief Requested:

Variance from Section(s) _____ of the Zoning Ordinance

Special exception pursuant to Section(s) _____ of the Zoning Ordinance

Appeal from determination of Zoning Officer relating to grant or denial of permit or failure to act upon an application for permit

Appeal from an enforcement notice issued by Zoning Officer

Substantive challenge to the validity of the Zoning Ordinance

Challenge to validity of land use ordinance raising procedural questions or defects in process of enactment

Appeal from Preliminary Determination of Zoning Officer

Variance from Section(s) _____ of the Flood Hazard Ordinance

Special exception pursuant to Section(s) _____
of the Flood Hazard Ordinance

7. Identification of Proposed Use/Basis of Appeal:

The information and statements in this application and any documents or plans attached hereto are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. 4904 (relating to unsworn falsifications to authorities).

Applicant

Date

INSTRUCTIONS

1. Identification of Applicant:

A. If the applicant is an individual or a sole proprietor, his/her full name shall be listed.

If the applicant is a partnership, the full names of all partners shall be listed. If the applicant is a corporation, the actual name of the corporation as registered with the Pennsylvania Secretary of State, Corporation Bureau, shall be listed.

Fictitious names, even if registered with the Pennsylvania Secretary of State, may not be substituted for the identification of any applicant.

Names of engineers, architects, real estate managers, etc., may not be substituted for identification purposes but may be listed as a supplement for contact purposes.

B. If the applicant is an individual or sole proprietor, his/her personal address shall be listed.

If the applicant is a partnership, the personal addresses of all partners shall be listed.

If the applicant is a corporation, the registered address as shown on the records of the Secretary of State and the actual physical location of the principal office if different than the registered address.

Post office boxes may not be used for mailing addresses for any applicant.

2. Identification of Owner:

A. and B. See Instructions for IA. and B.

4. Identification of Property:

D. For irregularly shaped properties, reference may be made to the deed or site plan to be attached to application.

E. A general description of any structures on the property shall be listed.

F. A brief description of the current use of the property shall be listed.

5. Identification of Applicant's Interest in Property:

If the record owner is the applicant, a copy of the deed shall be attached to the application.

If the equitable owner is the applicant, a copy of the agreement of sale shall be attached to the application. Confidential information from the agreement may be redacted.

If the tenant is the applicant, the written permission of the record owner/landlord shall be attached to the application.

6. Identification of Relief Requested:

If an appeal is taken from the determination of the zoning officer, a copy of the written response from the zoning officer to the request for a permit shall be attached to the application.

If an appeal is taken from a zoning enforcement notice issued by the zoning officer, a copy of the notice shall be attached to the application.

A copy of a plot plan shall be attached to the application. The plot plan shall include the location, lot size, dimensions, north point, scale, adjoining owners, existing buildings and improvements and proposed buildings and improvements. The application should address the issues set forth in Section 903.2 of the Zoning Ordinance.

The relief requested from the Board should be specified, including specific reference to the part, section, and subsection (if applicable) of the Wyomissing Zoning Ordinance from which relief is being requested. Additional sheets may be attached to the application.

8. Basic information for applicants to the Borough of Wyomissing Zoning Hearing Board:

A. The Borough of Wyomissing Zoning Hearing Board has authority to decide applications for variances and special exceptions, appeals from determinations made by the Zoning Officer and challenges to the validity of the Borough of Wyomissing Zoning Ordinance and/or map. The Board does not have the power to re-zone districts or to enforce zoning violations; Borough Council has this responsibility.

B. After the application, plans and \$1,000.00 application fee (made payable to the Borough of Wyomissing) have been accepted by the Borough of Wyomissing Zoning Officer, the Secretary of the Zoning Hearing Board will schedule a hearing within 60 days. A notice of the hearing will be sent to adjoining landowners, will be advertised in the newspaper and will be posted on the property in question. Zoning Hearing Board hearings are scheduled at Wyomissing Borough Hall on the third Tuesday of each month usually beginning at 3:00 P.M.

C. At the hearing formal rules of evidence do not apply. However, the Board will listen only to relevant information about the application. A stenographer will be present to record the testimony.

D. An applicant requesting a variance or special exception for a residential property or use is not required to have an attorney. **ALL APPLICATIONS FOR COMMERCIAL USES OR COMMERCIAL PROPERTIES WILL REQUIRE THE APPLICANT TO HAVE LEGAL REPRESENTATION AT THE HEARING.** Neither the Board nor its attorney (solicitor) is allowed to give legal advice. The Board cannot be questioned about the legal rules which apply to the application. In addition, an applicant cannot come to the hearing and expect the Board to tell him or her what information is necessary. The purpose of the hearing is for the Board to receive information and evidence from the applicant, nor the other way around. The applicant has the burden of providing evidence to support the application. If he or she fails to do so, the Board may deny the requested relief.

E. If the applicant applies for a variance, Section 902.1) of the Borough of Wyomissing Zoning Ordinance should be consulted for the type of information which should be provided to the Board. If the applicant applies for a special exception, Section 902.E of the Borough of Wyomissing Zoning Ordinance should be checked for the type of information which should be provided to the Board. In both cases, detailed site plan requirements of the property as outlined on the attached application must be submitted with the application.

F. At the end of the hearing the Board will announce a decision either granting or denying the application. A written decision will be sent to the applicant within 45 days of the last hearing. An appeal from this decision may be filed with the Court of Common Pleas of

G. The following sections of the Wyomissing Zoning Ordinance are provided for reference only:

Section 902.D. Variances

To authorize, upon appeal in specific cases, such variance(s) from the terms of this chapter of the Zoning Ordinance as will not be contrary to public interest, where a literal enforcement of the provisions of this chapter of the Zoning Ordinance will result in unnecessary hardship. In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code, as amended. 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 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 condition, and not circumstances or conditions generally created by the provisions of this chapter 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 this chapter 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 applicant.
- (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 as granted by the Board is the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (6) Such other considerations as may be set forth in the Pennsylvania Municipalities Planning Code from time to time.

Section 902.E. Special Exceptions

To issue, upon application, only such special exceptions which the Board by the provisions of this chapter of the Zoning Ordinance is specifically authorized to issue. The granting of a special exception when specifically authorized by the terms of this chapter of the Zoning Ordinance shall be subject to the following standards and criteria. The applicant for a special exception shall demonstrate, as a condition to approval of his or her application, compliance with these criteria and those criteria specified elsewhere in this Ordinance for the use in question.

- (1) Such use shall be one which is specifically authorized as a Special Exception Use in the zoning district wherein the applicant seeks a special exception.

- (2) Such special exception shall only be granted subject to any applicable condition and safeguards as required by this chapter of the Zoning Ordinance.
- (3) Such use shall not adversely affect the character of the general neighborhood, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded.
- (4) Such use shall be of such size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
- (5) Services and utilities such as public water, sanitary sewers, and storm water drainage shall be made available to adequately service the proposed use by the applicant.
- (6) Control development of highway frontage so as to limit the number of points for ingress and egress, their location with due regard to safety factors, and encourage, where practicable, frontage of buildings and structures upon parallel marginal roads or on roads perpendicular to the highway.
- (7) Consider the desirability of the proposed location of an industrial or commercial use with respect to probable effects upon street or highway traffic, and assure adequate access arrangements to protect against undue traffic congestion and hazard.
- (8) Consider such other considerations as may be set forth in the Pennsylvania Municipal Planning Code from time to time.

In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter of the Zoning Ordinance, as it may deem necessary to implement the purposes of this chapter of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code, as amended, which conditions may include but are not limited to harmonious design of buildings, planting and maintenance of shrubbery or trees as a sight and/or sound barrier, and the minimizing of potentially noxious, offensive or hazardous elements.

To exercise any other power specifically granted to the Board under the terms of this chapter of the Borough of Wyomissing Zoning Ordinance or Pennsylvania Municipalities Planning Code, as amended.

Section 904. Expiration of Special Exceptions and Variances

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to implement the proposed use or commence construction within twelve (12) months from the date of authorization of the special exception or variance, unless an extension is granted by the Zoning Officer.