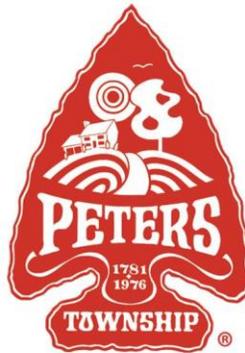


Notice to Applicants: Appearing Before the Peters Township Zoning Hearing Board

Appeals from Municipal Action, Variances, Validity Challenges,
and Use by Special Exception

A guide prepared by the:
Peters Township
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1. Introduction

Chapter 440 of the Peters Township Code of Ordinances, also known as the “Zoning Ordinance”, sets forth the regulations concerning the use, density and maintenance of land, buildings, and structures within Peters Township. The Zoning Ordinance designates 5 residential districts, 1 general commercial district, 1 industrial district, and 7 other special districts, along with their regulations, are intended to:

“To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.”

2. Variance

A. What is a Variance?

- a. A Variance is a relief from the provision of the Zoning Ordinance, granted by the Zoning Hearing Board (refer to §440-903 for a full list of the duties of the Zoning Hearing Board). The Zoning Hearing Board will hear requests for a Variance in cases “where it is alleged that the provisions of the Zoning Chapter inflict unnecessary hardship upon the applicant” (§910.2 Pennsylvania Municipalities Planning Code). It is important to note that a Variance is related to a property. In other words, if an application for a Variance is granted for a specific use, that Variance applies to the property in question **only**.

B. Why do I need a Variance?

- a. It is often believed that when a resident or business owner wishes to utilize his or her property in a manner that is not permitted in the Zoning Chapter, the logical recourse is to apply for a Variance. However, the Pennsylvania Municipalities Planning Code (MPC), which is the legislation that enables municipalities within Pennsylvania to enact and enforce Zoning and other regulatory ordinances, specifically outlines conditions under which a Variance may be granted.

C. MPC §910.2 Zoning Hearing Board Functions; Variance.

- a. The board shall hear requests for Variances where it is alleged that the provisions of the zoning 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.
- b. In granting any Variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

3. What is the Zoning Hearing Board?

Every municipality which has enacted a Zoning Ordinance is required to have a Zoning Hearing Board. The rules and regulations of the Peters Township Zoning Hearing Board are as follows:

A. Purpose of the Board

- a. The Purpose of the Zoning Hearing Board is to conduct hearings and render decisions regarding request for Variances to the Peters Township Zoning Ordinance (§440). Hearings conducted by the Zoning Hearing Board are quasi-judicial proceedings. This means that, although formal rules of evidence do not strictly apply, the record created during a hearing in front of the Zoning Hearing Board is considered to be legal record of proceedings.

B. Membership

- a. The membership of the Peters Township Zoning Hearing Board consists of seven (7) residents of the Township appointed by Township Council. Their terms of office shall be five years and shall be so fixed that the term of office of one member shall expire each year.
- b. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Township Zoning Hearing Board shall hold no other office in Peters Township.

C. Meetings

- a. Regular meetings of the Zoning Hearing Board are held on an as-need basis and are scheduled on the third Tuesday of each month at 7:00 p.m. in the Council Chambers in the Peters Township Municipal Building.

4. The Hearing Process

A. The Initial Application

- a. Obtain the application from the Peters Township Planning Department, or from the Peters Township website.
- b. Fill out the application, being careful to follow all directions correctly.
- c. Return the application and eight (8) copies of all supporting documents, with the appropriate fee, to the Planning Department.
- d. All properly completed applications will be placed on the calendar of the Zoning Hearing Board, and a hearing will be set within sixty (60) days of the receipt of the application.
- e. Because of legally imposed time requirements, this is a lengthy process. Please be advised that the time period between the initial application and receiving a written decision can be up to three months, or more.

B. Notification of the Hearing

The Zoning Hearing Board will give public notice of a hearing. Such notice is required to state the nature of the appeal, the location of the property, and the time and place of the hearing itself. The notice will be made public in the following manner.

1. The notice will be posted on the subject property at least 1 week before the hearing.
2. The notice will be mailed to the owner of all properties within 300 feet of the subject property.

3. The notice will be posted in the Observer Reporter newspaper at least 1 week before the hearing.
4. The notice will be posted on the Township Website and cable channel as soon as possible.

D. The Hearing

- a. The applicant has the option to be represented by counsel or agent.
- b. All persons giving testimony will be officially sworn in.
- c. The record created during a hearing is considered to be the legal record of the proceeding and will constitute evidence for an appeal to the Court of Common Pleas. A stenographic record of the proceedings will be made.
- d. The hearing will be conducted as follows:
 1. The Planning Department will present the basic facts of the case and their staff recommendation to the Zoning Hearing Board.
 2. The applicant will present their case. Expert witnesses may be called.
 3. Citizen opinion of the application will be heard.
 1. Citizens may present pertinent information to the Zoning Hearing Board. Such information will be made part of the official record of the proceedings.

E. The Decision

- a. The Zoning Hearing Board must render a final decision within 45 days of the date of the hearing.
- b. Official copies of the decision will be distributed to the applicant and will be kept on file with the Township.
- c. Please be advised that at no time should the applicant or any other interested party contact any member of the Zoning Hearing Board regarding the final decision.
- d. In the event that a Variance is granted, all special standards and conditions will be stated in the final decision and also on any building permit associated with the proposal. The permit will remain valid only as long as the standards and conditions are observed and maintained.
- e. Unless otherwise specified, a Variance shall be perpetual with the land.

F. Record of the Proceedings

- a. All record of hearings conducted by the Zoning Hearing Board are public, and are open for review during regular business hours, provided that a member of the Planning Department staff is available at the time of review. Business hours are 8:30 a.m. to 4:30 p.m. Monday through Friday. The records are kept in the Planning Department within the Peters Township Municipal Building, located at 610 E. McMurray Road, McMurray, PA 15317