

- ___ 4. For a Conditional Use as permitted by Article _____ Section _____ Subsection _____ of the Zoning Ordinance of the Township.
- ___ 5. An appeal from the determination of the Zoning Officer with respect to the granting, denial or failure to act on an application for a permit. (Attach a copy of the determination).
- ___ 6. An appeal from an enforcement notice issued pursuant to Section 616.1 of the Pennsylvania Municipalities Planning Code. (Attach a copy of the enforcement notice).
- ___ 7. A substantive challenge to the validity of a land use ordinance or map, or a provision thereof. (The written challenge should be filed with this application.)
- ___ 8. A challenge to the validity of a land use ordinance raising procedural questions or alleging defects in the process of adoption. (The written challenge should be filed with this application.)
- ___ 9. A Curative Amendment/Substantive Challenge to the validity of the Zoning Ordinance.
- ___ 10. Any other appeal from a determination by an officer, body or agency of the Township charged with the administration of any land use ordinance or application thereunder, to the extent that determination is appealable to the Zoning Hearing Board under the Pennsylvania Municipalities Planning Code.

V. The Status of the Applicant(s) (check one)

- ___ A. A person who has an interest in land, the use or development of which is prohibited or restricted by an ordinance or map, or a provision thereof. (Landowner must attach a plot plan as set forth in VIII below).
- ___ B. A person affected by a use or development permitted on the land of another by an ordinance or map, or a provision thereof.

VI. Real Estate Information:

A. The land involved is currently owned by:

- 1. Record owner(s): _____
- 2. Date purchased: _____
- 3. Deed Book _____ Page _____ (Must attach copy of deed or legal description)
- 4. Equitable owner(s) if any: _____
- 5. Date of Agreement of Sale: _____
(Attach a Copy)

VI. continued

B. Property location:

1. Name of road providing primary access: _____
2. Which side of road: _____
3. Identify nearest street intersection and approximate distance and direction:

C. Dimensions and improvements:

1. Width at road (frontage): _____
2. Approximate average width: _____
3. Approximate average depth: _____
4. Lot/parcel size: _____

D. Present improvements on the land are: _____

E. Present use is: _____

F. Zoning District (Accurate reference to Hereford Township Zoning Districts required):

- This parcel is located in the:
- () AP – Agricultural Preservation District;
 - () RC – Rural Conservation District;
 - () VP – Village Preservation District;
 - () MU – Mixed Use District;
 - () I – Industrial District;
 - () SW – Solid Waste Management District;
 - () PA –Private Airport District;
 - () MH – Mobile Home Park Overlay District;
 - () FH – Flood Hazard Overlay District.

G. Buildings and/or Use Proposed: _____

VII. **Nature of Request.**

Describe in detail the relief requested and the reasons for this Application. Attach additional sheets if necessary.

VIII. Interested Parties

You must list the names and correct mailing address of ALL owners of property that adjoins the real estate in question and all properties that are within 500 feet of the boundaries of the property which is the subject of this Application. (Attach additional sheets if necessary). The Application cannot proceed without this information.

IX. Certification

By signing this Application, the Applicant(s) certifies/certify as follows:

- A. If the Applicant(s) is/are the owner(s) of the land in question, he/she/they has/have attached a plot plan showing the location, lot size, dimensions, north point, scale, adjoining owners, existing buildings and improvements, and proposed buildings and improvements.
- B. The Applicant(s) has/have received and read the document entitled "Information for Persons Appearing Before the Zoning Hearing Board".
- C. All the information and statements in this application and any documents or plans filed in this matter are true and correct to the best of the Applicant's(s)' knowledge, information, and belief.

Date: _____

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 20__.

Notary Public

INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD

The Zoning Hearing Board is a quasi-judicial branch of the local government consisting of three (3) residents of the Township. The Board is represented by an attorney who is called the Solicitor to the Board. In general, the Zoning Hearing Board only has jurisdiction in specific areas as set forth in Section 909.1(a) of the Municipalities Planning Code (MPC). The Board's jurisdiction can, in general, be summarized as including the following matters: certain substantive and procedural challenges to Township ordinances; appeals from certain decisions of the Zoning Officer, requests for variances; special exceptions, and review of interpretations of land use ordinances by Township officials. Copies of the provisions of the MPC relating to variances and special exceptions are attached.

After an application is complete and filed, and the fee is paid, The Zoning Hearing Board must convene a hearing within 60 days. The hearing is advertised in a local newspaper and posted on the premises. At the hearing, the applicant must present evidence in support of his petition and anyone with legal standing to participate in the hearing will also be given a similar opportunity. The Applicant has the burden of proof to show that the applicant is legally entitled to the relief requested. While the Zoning Hearing Board is not required to follow the formal rules of evidence in the conduct of its hearings, it generally conducts a rather formal hearing since the law requires the Board to make a stenographic record of the proceeding, and generally to file a written decision. The formal proceedings help the Board to provide a fair opportunity for all participants to make their positions known, and this results in an opportunity for everyone to present evidence and for the Board to render decisions based on the law and all the relevant facts.

While it is not required, it is recommended that an applicant or objector retain the services of an attorney to assist in the application and the hearing. Neither the Zoning Hearing Board nor its Solicitor can or will give legal advice; nor will the Board or its Solicitor attempt to help a participant prepare or present the case.

An applicant must be aware that it is the applicant's burden to prove the matters asserted in the application which are being offered as justification for granting whatever relief has been requested from the Board. The applicant cannot simply come to the Board and expect the Board to tell them what to do. Likewise, it is not the Board's function to gather evidence or information. The Board will only receive evidence which is under oath and subject to cross-examination.

Applicants and any persons interested in the application, whether for or against it, should be aware that a hearing before the Zoning Hearing Board is not for the purpose of dispensing information, but rather for the Board to receive information and evidence. Therefore, the Board cannot be questioned nor will it respond to questions with regard to how it thinks, etc. The Board is constituted much like a court and is to receive information presented to it and to render a decision based upon the information brought to the Board. The Zoning Hearing Board is not permitted to communicate with any party in connection with any matter before the Board except as part of the hearing process itself.

Applicants and other interested persons, whether in favor or against the application, must be prepared at the time of the hearing to present whatever information or evidence they think is important to the Board's determination and to do so within the confines of a relatively formal judicial proceeding. Experience has taught the Board that it can best meet its legal obligations to remain fair and impartial and create a meaningful record only if it conducts its hearings more like a court than like a Town meeting.

Finally, it should be noted by anyone interested in a matter pending before the Zoning Hearing Board that the Zoning Hearing Board is not the same as the Township. Township government has three branches, as does most levels of government. The Township Board of Supervisors is the legislative branch of government which writes the Township laws (ordinances). The Board of Supervisors acting through its appointed employees and officials such as the Zoning Officer, the Sewage Enforcement Officer, the Township Secretary, the Township Engineer, and the Township Solicitor, is the executive branch of the government. The Zoning Hearing Board can be considered to be the judicial branch of the government which is separate and distinct from the other branches. The Zoning Hearing Board has nothing to do with writing ordinances nor with the enforcement of ordinances. The Zoning Hearing Board can only apply ordinances to particular factual situations in accordance with the jurisdiction provided for under state law.

Applicants acknowledge receiving a copy of this document and Sections 910.2 and 912.1 of the MPC.

Date: _____

§ 10910.2. Zoning hearing board's functions; variances

(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.

1968, July 31, P.L. 805, No. 247, art. IX, § 910.2, added 1988, Dec. 21, P.L. 1329, No. 170, § 89, effective in 60 days.

§ 10912.1. Zoning hearing board's functions; special exception

Where the governing body, in the zoning ordinance, has stated special exceptions to be granted or denied by the board pursuant to express standards and criteria, the board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the 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 of this act and the zoning ordinance.

1968, July 31, P.L. 805, No. 247, art. IX, § 912.1, added 1988, Dec. 21, P.L. 1329, No. 170, § 91, effective in 60 days.