

New Hanover Township

ZONING HEARING BOARD APPLICATION/APPEAL

(File in Triplicate)

I. Applicant(s):

_____	_____
name	name
_____	_____
_____	_____
_____	_____
address	address
_____	_____
phone	phone

II. Applicant's attorney:
(if applicable)

name

address

phone

III. Request for Hearing:

In accordance with the provisions Part 21 of The New Hanover Township Zoning Ordinance, a hearing before the Zoning Hearing Board is requested in which the applicant(s) will seek an adjudication of the matter(s) indicated below.

IV. **Type of proceedings(s):** (check all those which apply)

___ 1. A variance is requested to Part _____, Section _____, Subsections _____, _____ of the zoning ordinance.

___ 2. A special exception is requested to Part _____, Section _____, Subsections _____, _____ of the zoning ordinance relating to uses permitted as a special exception.

___ 3. 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.

___ 4. 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).

___ 5. A substantive challenge to the validity of a zoning/land use ordinance or map, or a provision thereof. (A detailed written challenge must be filed with this application).

___ 6. A Challenge to the validity of zoning/land use ordinance raising procedural questions or alleging defects in the process of adoption. (A detailed written challenge must be filed with this application).

___ 7. Any other appeal from a determination by an officer, body or agency of the Township charged with the administration of any zoning/land use ordinance or application thereunder, to the extent that determination is appealable to the Zoning Hearing Board under the Municipalities Planning Code.

V. **The Status of the Applicant(s) is:** (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.

VI. General Information about the Land:

1. The land involved belongs to:

- A. Record owner(s): _____
- B. Date purchased: _____
- C. Tax Parcel Identification No. 47-00-_____
- D. Deed Book _____ page _____ (attach a copy of deed)
- E. Equitable owner(s): _____
- F. Date of agreement: _____

2. The land is located as follows:

- A. Street Address _____
- B. Name of road providing primary access: _____
- C. Which side of road: _____
- D. Identify nearest street intersection and approximate distance and direction: _____

3. The land is configured as follows:

- A. Width at road (frontage): _____
- B. Approximate average width: _____
- C. Approximate average depth: _____
- D. Lot/parcel size: _____

4. Present improvements on the land are: _____

5. Present use is: _____

6. Zoning District: _____

7. Improvements being proposed: _____

8. Proposed use: _____

VII. Specific Information about this application/appeal:

(Set forth in complete detail what relief you are seeking from the Zoning Hearing Board; a brief summary of the necessary facts to be proved at the hearing; what law or legal theories pertain; what hardship will be shown;

FOR TOWNSHIP USE

File No. _____

Date Fully Completed Application Received: _____

Date of First Advertised Hearing: _____

Amount of Fees Paid \$ _____ **Receipt No.** _____

INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD

The Zoning Hearing Board is a quasi judicial branch of the local government consisting of five (5) 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. The Board's jurisdiction can, in general, be summarized as including the following matters: certain substantive and procedural challenges to Township ordinances; appeals from determination of the Zoning Officer; requests for variances and special exceptions; and review of interpretations of zoning/land use ordinances by township officials.

The Zoning Hearing Board, within 60 days after the receipt of an application, will convene a hearing which is advertised in the newspaper, posted on the premises and mailed to surrounding landowners. 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 proceedings. Only by insisting upon some formality can the Board keep control of its hearing and produce a meaningful record as required by law.

While it is not required that an applicant or objector retain the services of an attorney to assist in the application and the hearing, each participant must be aware that neither the Zoning Hearing Board nor its solicitor 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 township manager, zoning 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 interprets the ordinances and serves as the initial avenue of appeal from determinations by the executive and legislative branches of the government when they are acting in the various capacities of writing and/or enforcing ordinances.

Nine copies of documents either colored or exceeding 8 ½ x 11 in size and nine copies of photographs must be submitted with application.