

OFFICIAL USE ONLY

The Zoning Hearing Board
Borough of Clarion
Clarion, Pennsylvania 16214

Date Received _____

Hearing Date _____

Posted _____

Advertised _____

Number _____

Notice to Interested Parties:

APPELLANT: _____

NAME: _____

ADDRESS: _____

PHONE: _____

Disposition _____

Fee **\$300.00**

Request _____ is sought for _____

to be located at _____ ZONING DISTRICT: _____

This request is being made under the following section of the Ordinance: (Check One)

- _____ Section 210-67A(2) Dimensional Variance (Complete a-f-See Instructions)
- _____ Section 210-67A(3) Use Variance (Complete A2a-f **AND** A(3)a OR b-See Instructions)
- _____ Section 210-67A(4) Hybrid Variance (a mix of use/dimensional requirements)
(Complete A2a-f **AND** A(3)a OR b-See Instructions)
- _____ Section 210-67B Special Exception under Section _____ of the Ordinance
(Complete B2a-f)
- _____ Section 210-67C Administrative Appeal

State basis for request. If additional room is needed, attach supplemental sheet.

Signature: _____ Date: _____

Signature: _____ Date: _____

APPLICANTS FOR A VARIANCE MUST FILL OUT PAGE 2. ALL APPLICANTS MUST SHOW PROOF OF STANDING BY SUBMITTING A COMPLETELY SIGNED COPY OF ONE OF THE FOLLOWING: A DEED, AGREEMENT OF SALE, OPTION TO BUY, OR A LEASE.

ZONING HEARING BOARD – BOROUGH OF CLARION

- a) _____

- b) _____

- c) _____

- d) _____

- e) _____

- f) _____

ARTICLE VI
Zoning Hearing Board

§ 210-67. Zoning Hearing Board's functions.

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the matters authorized by Section 909.1(a) of the Pennsylvania Municipalities Planning Code,²⁰ including but not limited to the following:

A. Variances.

- (1) Filing requirements. Each variance application shall include the following:
 - (a) A complete application using the form prescribed by the Borough, including:
 - [1] The name and address of the landowner and applicant;
 - [2] Signed verification of the landowner of knowledge of the filling of the application;
 - [3] A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request;
 - [4] A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof; and
 - [5] A reference to the specific section and, where applicable, the subsection at issue and a statement in numbered paragraphs setting forth the grounds for each form of relief sought, together with each fact supporting the claim for relief.
 - (b) Eight copies of scaled drawings (site plan, including floor plans and elevations, where appropriate) of the site depicting existing conditions and requested variance(s).
 - (c) Names and addresses of adjoining property owners including properties directly across a public right-of-way.
 - (d) A written description of the requested variance(s) and grounds for the grant of the variance.
 - (e) Payment of applicable fees.
- (2) The Zoning Hearing Board may grant a dimensional variance, provided that the applicant submits sufficient evidence for the Zoning Hearing Board to make the following findings where relevant in a given case:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional

²⁰ Editor's Note: See 53 P.S. § 10909.1(a).

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 this chapter in the neighborhood or district in which the property is located;

- (b) 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 and that the authorization of a variance is therefore necessary to enable reasonable use of the property;
 - (c) That such unnecessary hardship has not been created by the appellant;
 - (d) That the variance, if authorized, will not alter the essential character of the district or neighborhood 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;
 - (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue; and
 - (f) In considering the application for a dimensional variance, the Zoning Hearing Board also may consider, for purposes of determining whether the property (not the person) is subject to unnecessary hardship, such other factors as have been established by the courts of Pennsylvania: economic detriment to the applicant if the variance is denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirement from which variance is sought, and the characteristics of the surrounding neighborhood if the property that is the subject of the application is located in a blighted area and the application will advance the neighborhood's rehabilitation.
- (3) The Zoning Hearing Board may grant a use variance, provided that the applicant submits sufficient evidence for the Zoning Hearing Board to make the required findings set forth in Subsection A(2) of this section and, in addition, one of the following findings:
- (a) The physical characteristics of the property are such that it could not be used for any use permitted by this chapter or could only be used for such permitted use at prohibitive expense; or
 - (b) The physical characteristics of the property are such that the property has either no value or only distress value for any use permitted by this chapter.
- (4) The Zoning Hearing Board may grant a hybrid variance (a mixed use/dimensional requirement variance, as characterized by decisions of the Pennsylvania courts), provided that the applicant submits sufficient evidence for the Zoning Hearing Board to make the findings set forth in Subsection A(2) of this section.
- (5) Conditions. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the

purposes of this chapter and to protect the public interest. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this chapter subject to the penalties described in this chapter.

- (a) A condition may be amended by the Zoning Hearing Board upon written application and finding by the Zoning Hearing Board of changed circumstances that render the original condition no longer appropriate to serve the function of protecting the public interest that gave rise to the condition.
 - (6) In granting any variance, the Zoning Hearing Board shall issue a written decision in time and manner required by Section 908(9) and (10) of the Pennsylvania Municipalities Planning Code.²¹
 - (7) If a zoning/building permit has been requested, the approved variance with any conditions imposed by the Zoning Hearing Board shall be attached to the application for zoning/building permit. Where the variance is approved prior to the application, then the approved variance with any conditions imposed by the Zoning Hearing Board shall be forwarded to the Zoning Officer.
 - (8) Time limitations. If the use, building or structure for which the variance was granted is not established, erected or completed, an approved variance shall expire within one year after the grant of the variance. Such expiration period shall be a condition of all grants of variance. An extension of the variance expiration period may be obtained upon application to the Zoning Hearing Board that states in writing the grounds for the need for the extension. The Zoning Hearing Board may grant an extension of six months upon finding that the applicant has acted with due diligence, and reasonable grounds exist for such extension.
- B. Special exceptions.
- (1) Filing requirements. Each special exception application shall include the following:
 - (a) A complete application using the form prescribed by the Borough and executed by the applicant, including:
 - [1] The name and address of the appellant and applicant;
 - [2] The name and address of the landowner of the real estate to be affected;
 - [3] A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request; and
 - [4] A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.

21. Editor's Note: See 53 P.S. § 10908(9) and (10).

- (b) Names and addresses of adjoining property owners including properties directly across a public right-of-way;
 - (c) Eight copies of scaled drawings (site plan, including floor plans and elevations where appropriate) of the site, including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this chapter, including competent evidence demonstrating a substantial likelihood of compliance with the requirements of this chapter;
 - (d) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter, including competent evidence demonstrating a substantial likelihood of compliance with the requirements of this chapter; and
 - (e) Payment of applicable fees.
- (2) General criteria. The Zoning Hearing Board shall hear and act upon applications for special exceptions as specifically authorized by this chapter. The granting of a special exception shall be subject to the following standards and criteria. The applicant for a special exception shall demonstrate, by credible evidence, compliance with these criteria and those criteria specified elsewhere in this chapter for the use in question.
- (a) The proposed use shall be consistent with the purpose and intent of this chapter as expressed in the district descriptions, and such use is specifically authorized as a use by special exception within the district wherein the applicant seeks approval;
 - (b) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
 - (c) The proposed use will not substantially change the character of the subject property's neighborhood nor adversely affect the character of the general neighborhood, the conservation of property values, the health and safety of residents or workers on adjacent properties and in the neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded;
 - (d) Adequate public facilities are available to serve the proposed use, and the proposed use shall not have an adverse effect upon the logical and economic extension of such public services and facilities (e.g., schools, parks and recreation, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);
 - (e) The applicant shall establish by credible evidence that the proposed special exception shall be in and of itself properly designed with regard to internal circulation, off-street parking, off-street loading, landscaping, screening, buffering, and all other elements of proper design as specified in this chapter and any other governing law or regulation; and

- (f) The proposed use demonstrates a substantial likelihood of compliance with the requirements of this chapter.
- (3) Conditions. The Zoning Hearing Board in approving special exception applications may attach conditions considered necessary to protect the public welfare and the purposes listed above. The Zoning Hearing Board may not attach conditions intended to correct an omission of proof of compliance with an objective requirement or to obtain compliance with an objective requirement except where the ability to comply with the requirement is clearly apparent from the record made before the Zoning Hearing Board. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in this chapter.
- (a) A condition may be amended by the Zoning Hearing Board upon written application and finding by the Zoning Hearing Board of changed circumstances that render the original condition no longer appropriate to serve the function of protecting the public interest that gave rise to the condition.
- (4) Site plan approval. Any site plan presented in support of the special exception shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning/building permit. Except as noted for minor changes, any subsequent change on the subject property not reflected on the originally approved site plan shall require the approval of another special exception.
- (a) A person or entity having obtained a special exception approval may apply for a minor change to the approval. The intent of the minor change application process is to streamline the review and approval of minor changes to an approved special exception that do not raise significant substantive concerns.
- (b) A change to an approved special exception that involves one or more of the following is ineligible for application for a minor change:
- [1] Change in use.
 - [2] Addition of, or change to, vehicular access.
 - [3] Change that would require relief from a standard or requirement of this chapter or Chapter 190, Subdivision and Land Development.
 - [4] Change that would modify relief already obtained through grant of a variance, with or without a condition.
 - [5] Change that would modify a condition of approval of a special exception.

- [6] Change that would increase the permitted residential density by more than 10% or lot coverage by more than 5%.
 - [7] Change that would add and/or relocate nonresidential off-street parking areas, off-street loading areas, outdoor waste storage, outdoor storage and/or display to yards, or portions thereof, adjoining residences and/or vacant lands, where such features had not been previously proposed.
 - [8] Change that would substantially alter, add or relocate stormwater management facilities previously proposed; increase the existing volume or rate of stormwater discharge from the site; or alter the existing quality of stormwater discharge.
- (c) An application for a minor change shall be submitted in writing to the Zoning Officer for review and approval. The application shall include such written and/or graphic information as may be necessary to fully explain the minor change. Concurrent with the submission of the application, the applicant shall mail a copy of the application notice to each person or entity recognized as a party in the initial application proceeding. The application shall include a sworn certificate of service that identifies, by name and address, each party served with the application.
 - (d) As the Zoning Officer deems necessary for the making of a decision on the application for minor change, the Zoning Officer may consult with the Borough Engineer, Borough Solicitor, and any other consultant.
 - (e) Within 21 days of the submission of the minor change, the Zoning Officer shall issue a written decision approving or recommending denial of the application for minor change. The written decision shall be issued to the applicant and all parties to the initial application proceeding.
 - [1] In the event the Zoning Officer approves the application for minor change, the decision shall be reported at a meeting of the Borough Council and officially noted in the Borough records in a manner consistent with the initial approval. The written approval of the minor change shall be concurrently posted at the Borough offices and on the Borough website and shall be reported to the Zoning Hearing Board at its next scheduled regular meeting.
 - [2] In the event the Zoning Officer recommends denial of the application for minor change, the written decision shall state the grounds for denial.
 - (f) In the event the Zoning Officer recommends the denial of the application for minor change, the applicant may appeal the determination of the Zoning Officer to the Zoning Hearing Board.
 - (g) The Zoning Officer's denial of the application for minor change does not foreclose the applicant from applying for and obtaining another special exception approval for the proposed change.
- (5) Time limitation. An approved special exception shall expire after one year.

- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
- (1) Filing requirements. Each appeal from the determination of the Zoning Officer shall include the following:
 - (a) A complete application using the form prescribed by the Borough and executed by the applicant.
 - [1] The name and address of the appellant and applicant;
 - [2] The name and address of the landowner of the real estate to be affected;
 - [3] A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request;
 - [4] A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof; and
 - [5] A reference to the specific section and, where applicable, the subsection at issue, and a statement in numbered paragraphs setting forth the grounds for each form of relief sought, together with each fact supporting the claim for relief.
 - (b) Names and addresses of adjoining property owners including properties directly across a public right-of-way.
 - (c) A written description of the error and grounds for the appeal.
 - (d) A scaled drawing (site plan, including floor plans and elevations, where appropriate) of the site depicting existing conditions and requested variance(s).
 - (e) Payment of applicable fees.

§ 210-68. Fees.

The Borough Council may prescribe reasonable fees with respect to applications requiring public hearing before the Zoning Hearing Board. Fees may provide for the recovery of administrative expenses incurred by the Borough, as such fees are authorized by Section 908(1.1) of the Pennsylvania Municipalities Planning Code.²²

22. Editor's Note: See 53 P.S. § 10908(1.1).