



E. Applications for variances from the terms of this Zoning Ordinance and any flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2. of the MPC and the following:

1. 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:

a. 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.

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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

c. That such unnecessary hardship has not been created by the applicant.

d. 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.

e. 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.

2. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of land, structures or buildings in other

zoning districts shall be considered grounds for the granting of a variance.

3. In no case shall a variance be granted solely for reasons of additional financial gain on the part of the applicant.

4. The jurisdiction of the Board of Supervisors shall not be infringed upon by action of the Board in any matter which should appropriately be the subject of an amendment to the Zoning Ordinance or Zoning Map. (No variance shall be granted under this section to allow a structure or use in a zone restricted against such structure or use.)

5. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, as amended.

F. Applications for special exceptions under this Zoning Ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 515 of this Ordinance and Section 912.1. of the MPC.

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.

H. Appeals from the Zoning Officer's determination under Section 916.2. (Procedure to Obtain Preliminary Opinion) of the MPC .

I. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development or Planned Residential Development applications.

**Section 808. Procedures for Application to the Zoning Hearing Board.**

A. The Zoning Hearing Board shall act in strict accordance with the procedure specified by law and by this Ordinance. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or

~~application shall refer to the specific provision of this Ordinance involved and shall exactly set forth the interpretation that is claimed, the use for which a special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.~~

B. In the event the procedures set forth in this Ordinance shall be in conflict with or contrary to the procedures set forth in the Pennsylvania Municipalities Planning Code, as amended, then and in such event the procedures set forth in the latter shall prevail.

C. Applications and appeals together with the required filing fee, as established by the governing body, shall be submitted to the Zoning Officer.

1. Parties Appellant Before the Board. Appeals under Sections 807 A., B., C., D., G., H. and I. may be filed with the Board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under Section 807 E. and for special exception under Section 807 F. may be filed with the Board by any landowner or any tenant with the permission of such landowner.

2. Time limitations. No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

3. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to Section 610 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the MPC shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

4. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.