

SECTION 2204 FUNCTIONS OF BOARD

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters.

A. Challenge the Validity the Zoning Ordinance or the Zoning Map. The Zoning Hearing Board shall hear such challenges as follows:

1. A landowner who, on substantive grounds, desires to challenge the validity of this Ordinance or the Zoning Map or any provision thereof which prohibits or restricts the use of development of land in which he has interest shall submit the challenge to either the Zoning Hearing Board under Section 909.1(a) of the Pennsylvania Municipalities Planning Code or the Board of Supervisors under Sections 909.1(b)(4) and 609.1 of the Municipalities Planning Code.

2. Persons aggrieved by a use or development permitted on the land of another by this Ordinance or the Zoning Map or any provision thereof, who desires to challenge its validity shall first submit their challenge to the Zoning Hearing Board for a decision thereon under Section 909.1.(a)(1) of the Pennsylvania Municipalities Planning Code.

3. In addition to the procedures set forth in Section 916.1 of the Municipalities Planning Code, in all such challenges the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact and, of interpretation, and submit such findings as part of the record to the court.

B. Variances. 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 grant a variance provided 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 Applicant.

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; and,

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 or ordinance in issue; and, in granting any Variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

C. Special Exceptions. The Board shall hear and decide Special Exceptions in accordance with the standards set forth below; and, in granting Special Exceptions, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

1. Whenever the Board hears a Special Exception for uses specified in this Ordinance the following general standards shall be considered in addition to those set forth in Article 21, Section 2112:a. If the use(s) is in accordance with the Township Comprehensive Plan and consistent with the Purposes of this Ordinance.

b. If the use(s) is in the best interest of the Township and promotes the public health, safety and general welfare.

c. If the use(s) is suitable for the property in question and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance with the character of the general vicinity.

d. If the use(s) is suitable in terms of the logical, efficient, and economical extension of public services and facilities such as public water, public sewer, police and fire protection, public schools, and the like.

e. If the use is suitable in terms of effects

on street traffic and safety with adequate pedestrian and vehicular access arrangements to protect streets from undue congestion and hazard. The Zoning Hearing Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will substantially secure the objectives of this Ordinance.

D. Substantive challenges to the validity of this Ordinance, except those brought before the Board pursuant to Sections 609.1 and 916.a(a)(2) of Act 247.

E. Challenges to the validity of this Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of the Ordinance.

F. 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 the registration or refusal to register any nonconforming use, structure or lot.

G. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of the Flood Hazard District provisions of this Ordinance.

H. Appeals from the Zoning Officer's determination under Section 916.2 of the Municipalities Planning Code.

I. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this Ordinance or provision thereof with reference to sedimentation and soil erosion control and stormwater management insofar as the same relate to development.

J. Applications for Variances from the terms of the Flood Hazard District of this Ordinance.

K. Applications for Special Exceptions under the Flood Hazard District of this Article.