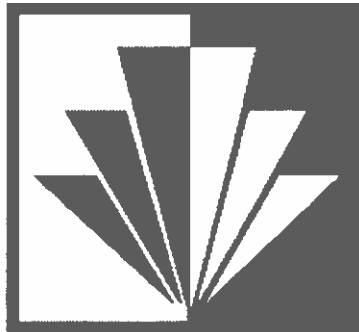


Appearing before the Mt. Lebanon Zoning Hearing Board

Appeals from Municipal Action, Variances, Validity Challenges,
Use by Special Exception

A guide prepared by the
MT. LEBANON
ZONING HEARING BOARD



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I. INTRODUCTION

Chapter XX of the Mt. Lebanon Code, also known as the Zoning Chapter, sets forth the regulations concerning the use, density, and maintenance of land, buildings, and structures within the Municipality of Mt. Lebanon. The Zoning Chapter designates eight residential, three commercial districts and six special districts, which, along with the regulations, are intended to:

“accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential Dwelling types and non-residential Use.”

II. VARIANCE

A. What is a variance?

A variance is a relief from the provisions of the Zoning Ordinance, granted exclusively by the Zoning Hearing Board (see Section III of this report for an explanation of the roles and duties of the Zoning Hearing Board). The Zoning Hearing Board will hear requests for a variance in cases “where it is alleged that the provisions of the Zoning Chapter inflict unnecessary hardship upon the applicant” (§ 910.2 Pennsylvania Municipalities Planning Codes). It is important to note that a variance is property related; in other words, if an application is granted a variance for a specific use, and he or she subsequently moves elsewhere, the variance still applies to that property only, as long as the standards established by the Zoning Hearing Board are maintained. A variance cannot be “carried” from one property to another.

B. Why do I need a variance?

It is often believed that when a resident or business owner wishes to utilize his or her property in a manner that is not permitted in the Zoning Chapter, the logical recourse is to apply for a variance. However, the Pennsylvania Municipalities Planning Code, which is the legislation enable municipalities within Pennsylvania to enact and enforce zoning and other regulator ordinances, specifically outlines conditions under which a variance may be granted.

§ 910.2. 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.

III. WHAT IS THE ZONING HEARING BOARD?

Every municipality which has enacted a zoning ordinance is required to have a zoning hearing board. The rules and regulations of the Mt. Lebanon Zoning Hearing Board were originally adopted in 1930. They were most recently amended in 1988, in accordance with the Pennsylvania Municipalities Planning Code.

A. Purpose of The Board

The purpose of the Zoning Hearing Board is to conduct hearings and render decisions regarding requests for variances to the Zoning Chapter. Hearings conducted by the Board are quasi-judicial proceedings. This means that, although formal rules of evidence do not strictly apply, the record created during a hearing in front of the Board is considered to be a legal record of the proceedings.

B. Membership

The Zoning Hearing Board consists of three members, all of whom must be residents of Mt. Lebanon. The Commission selects the members and appoints them to three year terms. The terms are staggered in such a way that the term of office of one member shall expire each year. Annually, the Board elects a Chairman, Vice-Chairman and Secretary to serve for the calendar year.

C. Meetings

Regular meeting of the Board are held on an as-needed basis, and are scheduled on Thursdays at 7:30 p.m. in the Commission Chambers of the Mt. Lebanon Municipal Building. However, the Chairman may call meetings at other times, provided that 24 hours notice is given to each member.

IV. THE HEARING PROCESS

A. THE INITIAL APPLICATION

1. Obtain the proper application form from the office of the Zoning Officer, Mt. Lebanon Municipal Building.
2. Fill out the application as directed, being careful to follow all directions closely.
3. Return application and supporting documents, with a fee of \$175.00 for cases involving residential properties up to 1-4 dwelling units, \$700.00 for all other cases, to the office of the Zoning Officer.
4. All applications for variances to the Zoning Chapter must be submitted within 30 days of the date on which the Zoning Officer denied, in writing, the application for Building Permit.
5. All properly completed applications will be placed on the calendar of the Zoning Hearing Board, and a hearing date will be set within sixty (60) days of the receipt of the application.
6. Because of legally imposed time requirements, this is a lengthy process. **PLEASE BE ADVISED THAT A PERIOD OF AT LEAST THREE MONTHS SHOULD BE ALLOWED FROM THE DATE OF THE INITIAL APPLICATION TO THE RECEIPT OF THE FINAL DECISION.**

B. NOTIFICATION OF HEARING

The Board will give public notice of a hearing on any appeal to the Zoning Chapter. Such notice is required to state the nature of the appeal, the location of the property, and the time and place of the hearing itself. The notice will be made public in the following manner:

1. The notice will be posted in a conspicuous location as near the property involved as possible. This is done at least one (1) week prior to the hearing.
2. The notice will be mailed to the appellant and/or property owner involved.
3. Public notice is defined under the Pennsylvania Municipalities Planning Codes (§ 107. Definitions) as follows:

“Public notice,” notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than (thirty) 30 days and the second publication shall not be less than seven days from the day of the hearing.

This notice will be published in the Pittsburgh Post-Gazette Suburban South Section (issued on Thursdays).

4. The notice will be mailed to the following Municipal Officials: members of the Mt. Lebanon Commission; members of the Mt. Lebanon Planning Board; Municipal Manager, Assistant Manager, Municipal Solicitor, and Engineer.

C. THE HEARING

1. The appellant has the option to be represented by counsel or agent.
2. All persons giving testimony will be officially sworn in
3. The record created during a hearing is considered to be the legal record of the proceeding, and will constitute evidence for any appeal to the Court of Common Pleas. A stenographic record of the proceeding will be made. If a party requests a stenographic record, the requesting party will be charged a fee.

4. The hearing will be conducted as follows:
 - a. Appellant presents his or her case. Expert witnesses may be introduced at this time.
 - b. The Zoning Officer may be called upon at the discretion of the Board to give testimony.
 - c. Citizens in favor of the proposal shall be heard.
 - d. Citizens opposed to the proposal shall be heard.
 - e. In addition, any citizen may present pertinent information to the Board, either prior to or at the time of the hearing. Such material will be made part of the official record of the proceedings.

D. THE DECISION

1. The Zoning Hearing Board must render a final decision within 45 days of the date of the hearing.
2. Official copies of the decision will be distributed to the Zoning Officer, the Chairman of the Zoning Hearing Board, and, by certified mail, to the Applicant.
3. Unofficial copies will be sent to other parties who are directly interested in the property involved.
4. **BE ADVISED AT NO TIME SHOULD THE APPLICANT OR ANY OTHER INTERESTED PARTY CONTACT ANY MEMBER OF THE ZONING HEARING BOARD OR ITS STAFF REGARDING THE FINAL DECISION.**
5. In the event that the variance is granted, all special standards and conditions will be stated in the final decision and also in the permit issued by the Building Inspector. The permit will remain valid only as long as the standards and conditions are observed and maintained
6. Unless otherwise specified the variance shall be perpetual with the land.

7. Because of legally imposed time requirements, this is a lengthy process. **BE ADVISED THAT A PERIOD AT LEAST THREE MONTHS SHOULD BE ALLOWED FROM THE DATE OF THE INITIAL APPLICATION TO THE RECEIPT OF THE FINAL DECISION.**

E. RECORD OF THE PROCEEDINGS.

All records of hearings conducted by the Zoning Hearing Board are public, and are open for review during regular business hours, provided that the Zoning Officer, or any member of the Zoning Hearing Board are present at the time of review at the Mt. Lebanon Municipal Building, 710 Washington Road.

**MT. LEBANON ZONING HEARING BOARD
INSTRUCTIONS TO APPELLANTS**

I. NOTICE OF APPEAL

1. Applications for a Special Exception or variance or any Appeal to the Zoning Chapter of Ordinance #2636 may be taken to the Zoning Hearing Board by any person aggrieved or by any officer, department, or board of the Municipality of Mt. Lebanon affected by any decision by any officer or officers charged with the enforcement of this Ordinance by whatever title known. The appellant or applicant shall file his or her application or Notice of Appeal with the form provided by the municipality within 30 days after the decision of the Zoning Officer or other officer.

2. Read carefully all instructions on the Zoning Hearing Board Application and fill in the required information. It is necessary to have this original notarized. If more space is required for any question to be answered, attach a separate sheet and make specific reference to the question being answered.

II. FEES

A fee of \$175.00 for cases involving residential properties up to 1-4 dwelling units and \$700.00 for all other properties shall be paid to Mt. Lebanon, PA upon the filing of each application or appeal, for the purpose of the defraying expenses incidental to the proceedings. Checks should be made payable to Mt. Lebanon, PA.

III. PLOT PLANS AND ARCHITECTURAL DRAWINGS.

The applicant or appellant will be required to furnish four (4) plot plans or surveys as set forth in # 2636, Chapter II, Buildings, which are to be drawn to scale showing all open spaces required by this Ordinance and the Zoning Ordinance, all existing structures and physical improvements and the location and dimensions of the proposed structure (if any) or addition to structure (if any) for which the permit is sought. Plot plans must be prepared by the Registered Professional Engineer, Registered Architect, or Registered Surveyor for the erection of all new structures. Also in cases involving any repairs, additions or alterations, whether inside or outside of the building, or when a new structure is constructed, applicant or appellant is to furnish four (4) complete sets of drawings of the structure showing all essential parts and members.

Upon approval of plan and specifications, one set of plans so marked will be returned to the applicant of appellant and must be kept at the building site and shall be accessible at all times to the Building Inspectors, Police Officers, of the Township. No change in any set of plans will be permitted without notification in writing to and approved by Building Inspector.

IV. BUILDING PERMIT APPLICATIONS.

Fill in required information. This must be signed by the owner as such on the front of the application as well as affiant when being notarized.

V. CERTIFICATE OF OCCUPANCY APPLICATIONS

1. This application is necessary only for previously nonexistent inhabitable areas to be constructed, such as an entirely new dwelling of any kind; a new addition to an existing dwelling; a porch enclosure addition created to form an integral part of an existing dwelling; a private garage integral or detached; swimming pool enclosure or bathhouse, etc.
2. Fill in required information. The form must be signed by owner and notarized as affiant on front of application.

SUMMARY OF REQUIREMENTS:

1. Payment of one hundred seventy five dollars (\$175.00) for cases involving 1-4 dwelling units, seven hundred dollars (\$700.00) for all other cases.
2. Four (4) copies of the variance application, one (1) to be notarized.
3. Four (4) copies of plot plans or surveys, site plans, design drawings and any other information intended to be presented to the Zoning Board.

NOTE:

Under the Provisions of Ordinance # 2636, Chapter XX, Zoning, the parties in interest shall be notified of the decision of the Zoning Hearing Board within 45 days of the date of the hearing. Appellants or Applicants are requested not to contact the members of the Board prior to the hearing date or after that date until a decision of the Board has been reached. A notice will be given in writing of the hearing date and a decision in writing following the hearing. In the event of approval by the Zoning Hearing Board, unless otherwise specified by the Board, a special exception, variance, or conditional use authorized by the Board shall be perpetual. After a building permit has been issued, construction must start within six months following date of issue, otherwise the building permit may be automatically revoked by the Building Inspector. In the event of delay, such as extreme weather conditions or otherwise, an extension may be requested by the Appellant or Applicant.

If there any inquiries in regard to the Zoning Hearing Board Appeal or the filing of forms, please feel free to contact the Zoning Officer, Mt. Lebanon Municipal Building, 710 Washington Road, Pittsburgh PA 15228, (phone 412- 343-3475).