

# TOWNSHIP OF SOUTH FAYETTE

## ZONING HEARING BOARD

APPLICATION NO.		DATE:	
THE UNDERSIGNED APPLICANT HEREBY : (CHECK APPROPRIATE BOX(S)).			
<input type="checkbox"/>	APPEALS FROM A DETERMINATION OF THE ZONING OFFICER		
<input type="checkbox"/>	REQUESTS A SPECIAL EXCEPTION		
<input type="checkbox"/>	REQUESTS A VARIANCE		
<input type="checkbox"/>	CHALLENGES THE VALIDITY OF A ZONING ORDINANCE OR MAP		
<input type="checkbox"/>	REQUESTS OTHER RELIEF WITHIN THE JURISDICTION OF THE ZONING HEARING BOARD AS ESTABLISHED IN SECTION 909.1(a) OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE		
<b>PROPERTY INFORMATION</b>			
ADDRESS/LOCATION			
TAX ID NUMBER		SIZE OF PROPERTY	
PRESENT ZONING		PRESENT USE	
GENERAL CHARACTER OF NEIGHBORHOOD			
<b>APPLICANT INFORMATION</b>			
NAME			
ADDRESS			
TELEPHONE #		E-MAIL	
<b>PROPERTY OWNER INFORMATION (If different than Applicant information)</b>			
NAME			
ADDRESS			
TELEPHONE #		E-MAIL	
<b>APPLICANT REPRESENTATIVE INFORMATION</b>			
<input type="checkbox"/>	I AM NOT REPRESENTED BY AN ATTORNEY IN CONNECTION WITH THIS APPLICATION		
<input type="checkbox"/>	I AM REPRESENTED BY AN ATTORNEY		
	ATTORNEYS NAME, ADDRESS AND PHONE NUMBER		
APPLICANT SIGNATURE		DATE	
OWNER SIGNATURE		DATE	

Application submission deadline is the third Monday of the month preceding the month that the Application will be heard by the Zoning Hearing Board. Application must be received by the Township Secretary by 4:30 PM at the Township Building located at 515 Millers Run Road, Morgan, PA 15064.

By Signing above the applicant/owner has acknowledged receipt and review of the South Fayette Township General Instruction for Zoning Hearing Board Application.

**ZONING HEARING BOARD  
HEARING INFORMATIONAL QUESTIONNAIRE  
(Complete Applicable Section(s) Only)**

**Appeal from Determination of Zoning Officer – Complete this Section**

The action taken was:	
The date action was taken	
The action was in error because:	
Attached a copy of any written order issued by the Zoning Officer in connection with this matter	

**Request for a Special Exception**

Nature of Special Exception sought is:						
The Special Exception is allowed under	Article		Section		subsection	
of the South Fayette Township Zoning Ordinance						
The reason for the request is:						
If applicable, attach documentation demonstrating compliance with all applicable standards set by the Township Zoning Ordinance for this Special Exception.						

**Request for a Variance**

Nature of the Variance sought is:						
The Variance if from	Article		Section		Subsection	
of the South Fayette Township Zoning Ordinance						
The nature of the unique circumstances and the unnecessary hardship justifying this request for a variance is:						

**Challenging the validity of a Zoning Ordinance or Map**

Identify the provision of the ordinance or map which you believe to be invalid:					
The challenge is ripe for decision because:					
The provision challenged is invalid because:					
Attach a copy of the ordinance and/or map you are challenging.					

**SOUTH FAYETTE TOWNSHIP  
GENERAL INSTRUCTIONS FOR ZONING HEARING BOARD  
APPLICATIONS**

1. **Application submission deadline is the third Monday of the month preceding the month that the Application will be heard by the Zoning Hearing Board. Application must be received by the Township Secretary by 4:30 PM at the Township Building located at 515 Millers Run Road, Morgan, PA 15064.**
2. All information on application must be furnished with supporting documents. In particular, provide copy of deed, lease, agreement of sale, or other document, which establishes the authority of the applicant to seek relief from the Zoning Hearing Board.
3. Legal advertising of the hearing scheduled by the Board to consider your application will be based exclusively upon the information contained in the application. Any omissions or inaccuracies will be the sole responsibility of the applicant.
4. Applicant or representative must be present at the hearing. Other wise the petition will be dismissed unless postponed by the Zoning Hearing Board upon cause shown or upon their motion.
5. At all Hearings, proof of title to the property affected must be available to the Zoning Hearing Board, whether the applicant's interest is as owner, tenant, purchaser, or in other capacity.
6. The applicant should note that in accordance with the Municipalities Planning Code, Act 247, Section 908, it will be necessary for South Fayette Township to post notice of the hearing. Such posting shall be conspicuously displayed on the affected tract of land or building.
7. The Following must accompany all applications:
  - a. A filing fee in accordance with the Township adopted fee schedule in effect at the time of application.
  - b. One (1) copy each of completed application, all required documents, including proof of title, plot plan drawn to scale, showing real estate affected, indicating the location and size of all improvements now erected and the location and size of all proposed improvements to be erected thereon.
  - c. A completed information questionnaire for the specific type of application i.e. variance, special exception.
8. All meetings of the Zoning Hearing Board are open to the public.
9. No decision by the Zoning Hearing Board relieves any applicant from the responsibility of obtaining any required permits in the matter prescribed by the Zoning Ordinance(s)
10. The applicant is expected to review the Township Zoning Ordinance, in relation to their request, prior to filing an application for a hearing before the Zoning Hearing Board. A complete copy of the Zoning Ordinance can be obtained at the Township building for a fee or downloaded from the Township's website located at [south-fayette.pa.us](http://south-fayette.pa.us).

11. An application to the Board for a Special Exception and/or Variance, if refused, shall not be renewed within the period of one (1) year, unless there has been a change in conditions and unless the renewed application distinctly sets forth changed conditions.
12. Unless the Board in its Orders and decisions stipules otherwise, all decisions or appeals and variances and exceptions under this Ordinance shall be effective for a period of 12 months, unless the Order or Decision has been complied within said period of time, it shall cease and be of no effect.
13. There is a 30-day period after the date of a decision for an aggrieved person to file and appeal in Court to contest an approval by the Zoning Hearing Board. Applicants that take action on a Zoning Hearing Board approval during the 30-day appeal period do so at their own risk.
14. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:
  - a. Substantive challenges to the validity of any land use ordinance, except curative amendments brought before the Board of Commissioners.
  - b. Challenges to the validity of a land use 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.
  - 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - d. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
  - e. Applications for variances from the terms of this Ordinance and flood hazard ordinance or such provisions within a land use ordinance pursuant to Section 2005.
  - f. Applications for uses by special exception under this Ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Article XV and Section 2006 of this Ordinance.
  - g. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code (Act 247, as amended).
  - h. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development.
  - i. Appeals from decisions of the Zoning Officer with respect to requests for reasonable accommodation under the Fair Housing Act Amendments or the Americans with Disabilities Act. In hearing such an appeal, the Board shall apply the criteria set forth in §2102.2 of this Ordinance. In granting a request for reasonable accommodation, the Board may attach such reasonable safeguards and/or limitations as it may deem necessary to properly implement this Ordinance and protect the public health, safety and welfare in a manner consistent with the requirements of the Fair Housing Amendments Act or the Americans with Disabilities Act. In handling a request for reasonable accommodation, the Board shall be governed by the provisions of this Article to the fullest extent as may be consistent with the Fair Housing Act Amendments and the Americans with Disabilities Act.

# GUIDELINES FOR VARIANCES

THE ZONING HEARING BOARD IS A QUASI-JUDICIAL BODY. THE DETERMINATION OF APPEALS AND/OR APPLICATIONS MADE TO THE BOARD WILL BE BASED ON LEGAL AND TECHNICAL CONSIDERATIONS CONTAINED IN THE SOUTH FAYETTE TOWNSHIP ZONING ORDINANCE AND THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE. ANY APPLICANT WITHOUT A GOOD WORKING KNOWLEDGE OF THE ZONING ORDINANCE AND THE PLANNING CODE WOULD BE WELL ADVISED TO CONSULT WITH A REGISTERED LAND SURVEYOR AND AN ATTORNEY PRIOR TO PROCEEDING WITH THE APPLICATION OR APPEAL. WHILE SUCH PROFESSIONAL ASSISTANCE IS NOT SPECIFICALLY REQUIRED, (EXCEPT IN THE PREPARATION OF PLANS) IT MAY SAVE MUCH TIME AND UNNECESSARY EXPENSE IN ESTABLISHING A COURSE OF ACTION AND INSURING THAT PROPER PROCEDURES ARE FOLLOWED. FAILURE TO PROPERLY PREPARE OR PRESENT THE CASE MAY RESULT IN THE DENIAL OF THE REQUESTED ACTION.

## VARIANCES

Variance provisions were established because the zoning requirements for any given district did not affect all properties equally. A mechanism was needed to permit minor changes in the requirements where a particular property was so unreasonably burdened that it could not be developed in strict conformity with the provisions of the Zoning Ordinance.

A variance is, and should be, difficult to obtain. So long as the property can be developed for some reasonable use (in conformity with the provisions of the Zoning Ordinance), the fact that it could produce more income or satisfy the needs or desires of the owner more thoroughly is not a sufficient basis for the award of a variance. Financial hardship will not be taken into consideration.

Unfortunately, many applicants assume that a variance is something designed to permit the highest and best use of, or the greatest financial return from, their property where the requirements of the Zoning Ordinance limit its use or value in some way. This is an incorrect perception of a variance, and one that causes the applicant a great deal of difficulty when a case is based on that reasoning. Even when the proposed variance would be beneficial to the community as a whole, the Zoning Hearing Board is not empowered to make adjustments to the Zoning Ordinance unless and until the requisite criteria for a variance are fully established by the applicant, and then only to the extent that it is the minimum variance that will relieve the hardship to the particular property.

The applicant must prove that the property specifically meets each of the five tested listed. If the applicant should fail to prove this, the Board will have no option but to deny the application. Because of many legal and technical considerations inherent in these cases, the applicant should seriously consider obtaining professional representation in the preparation and presentation of the case. A thoroughly prepared, professionally presented argument will substantially increase the likelihood of a satisfactory outcome for the applicant.

**A variance may be granted if 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 this 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 this 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 necessary to afford relief and will represent the least modification possible of the regulation in issue.