

Zoning Hearing Board Application Submittal

Applicants are strongly encouraged to review the “Requirements and Information for Appeals to the Zoning Hearing Board” that are attached to the application. Ten (10) copies of this application and required attachments along with an **electronic copy in pdf format (CD or thumb drive)** must be filed with Community Development Department not less than thirty (30) days prior to the hearing.

Incomplete applications will not be accepted for processing.

ZONING HEARING BOARD APPLICATION

TOWNSHIP OF RADNOR

301 IVEN AVENUE

WAYNE, PA 19087

610-688-5600

FAX: 610-971-0450

www.radnor.com

www.radnor.com

TOWNSHIP USE ONLY
APPEAL # _____
FEE: _____
DATE RECEIVED: _____

GENERAL INFORMATION: Applicants are strongly encouraged to review the "Requirements and Information for Appeals to the Zoning Hearing Board" that are attached to the application. Ten (10) copies of this application and required attachments along with an **electronic submittal in pdf format (CD or thumb drive)** must be filed with the Community Development Department not less than thirty (30) calendar days prior to the hearing. *Incomplete applications will not be accepted for processing.*

REQUIRED FEE DUE AT FILING: Please refer to the Consolidated Fee Schedule, as amended on our website at www.radnor.com for a copy of our current fees.

TYPE OR PRINT

Property Address: _____

Name and address of Applicant: _____

Telephone Number: _____ Email: _____

Property Owner (if different than above): _____

Owner address: _____

Telephone number: _____ Email: _____

Attorney's name: _____

Address: _____

Telephone number: _____ **Email:** _____

Relief requested and/or basis for appearing before the Zoning Hearing Board including *specific citation to any and all sections of the Zoning Code relevant to the appeal. (attach additional pages if necessary)*

Description of previous decisions by the Zoning Hearing Board pertinent to the property, or attach copies of decisions: *(attach additional pages if necessary)*

Brief narrative of improvements: *(attach additional pages if necessary)*

ATTACHMENTS: Ten (10) copies of each and **one (1) electronic copy in pdf format (CD or thumb drive)** of the following must be provided:

1. Engineered plan or survey of the property drawn to scale, prepared by a registered architect, engineer or surveyor licensed in Pennsylvania, containing the following information:
 - a) lot lines and lot dimensions described in metes and bounds (in feet);
 - b) total lot area;
 - c) location of easements and rights of way, including ultimate rights of way;
 - d) location of all setback lines for existing and proposed structures;
 - e) location of steep slopes, floodplains, riparian buffers, wetlands, and other pertinent features;
 - f) location of existing and proposed improvements;
 - g) table of zoning data including zoning district, required setbacks, existing and proposed building coverage, impervious coverage, height, and other pertinent zoning restrictions, and any degree of compliance or noncompliance; and
 - h) all other features or matters pertinent to the application.

PLANS SHALL NOT EXCEED 24" X 36", AND MUST BE NEATLY FOLDED TO NO GREATER DIMENSION THAN 8 ½" X 11" AT FILING

2. List of witnesses and summary of their testimony attached.
3. Photographs of the property at issue and all adjoining properties.
4. Copies of any written professional reports, including traffic studies, land planning studies,

appraisals, floodplain analyses, economic forecasts or other written reports, which the applicant wishes to present at the hearing (*note: the author of the study or a qualified representative of the entity who prepared the study must appear at the meeting and be available for cross-examination*).

5. Copy of deed, lease, agreement of sale, or other authorization to file the appeal. (*note: leases or agreements of sale either must expressly permit the tenant or buyer to file an appeal, or must be accompanied by a by a letter from the owner clearly authorizing tenant or buyer to file the appeal*).

ADDITIONAL REQUIREMENTS

1. Will this application involve the subdivision of land? Applications that involve the subdivision of land are referred to the Planning Commission for review and recommendation. *Applicants will be notified of the date and time of the Planning Commission meeting*
2. Will briefs or memoranda of law be filed in accordance with requirements of the Zoning Hearing Board? (*note – 10 copies of any brief or memorandum of law to be submitted by the applicant must be received by the Community Development Department no later than 14 days before the hearing*).
3. Will the applicant (or duly authorized officer of the applicant, if applicant is not a natural person) be present at the hearing. If not, then power of attorney, notarized and in recordable form, authorizing the person who will testify on behalf of the applicant, and to bind the applicant in any proceedings of the Board must be presented at or before commencement of the hearing. Attorneys, agents, or other representatives of the applicant may not appear and testify on behalf of the applicant without power of attorney. Forms of power of attorney are available in the Community Development Department. (*note: failure to provide power of attorney will result either in the appeal being continued, or being dismissed, at the discretion of the Board*)

SIGNATURE OF APPLICANT

AN ADDITIONAL FEE OF \$200 SHALL BE CHARGED FOR ANY CONTINUANCE REQUESTED BY THE APPLICANT. THIS FEE SHALL BE PAID PRIOR TO THE RESCHEDULING OF THE HEARING.

REQUIREMENTS AND INFORMATION FOR APPEALS TO THE RADNOR TOWNSHIP ZONING HEARING BOARD

The following information and requirements have been prepared to provide applicants and other parties who appear before the Radnor Township Zoning Hearing Board with basic information as to the purpose and procedures of this Board. All questions regarding these Requirements and Information should be directed to the Radnor Township Community Development Department at (610) 688-5600.

1. BACKGROUND INFORMATION

The Radnor Township Zoning Hearing Board (Zoning Board) is a quasi-judicial body created under authority of both the Pennsylvania Municipalities Planning Code (53 P.S. §10101 *et seq.*) and the Radnor Township Zoning Code. The Zoning Board is comprised of five (5) members and one (1) alternate member, all of whom are appointed by the Radnor Township Board of Commissioners, and all of whom must be residents of Radnor Township. The Zoning Board also retains the services of legal counsel, the Zoning Board Solicitor, this position being separate and distinct from the responsibilities of the Township Solicitor. Copies of the Zoning Code and Zoning Map may be purchased at the Municipal Building in the Community Development Department, or may be reviewed on the Township's website at www.radnor.com.

2. RESPONSIBILITIES

Under both the Pennsylvania Municipalities Planning Code and the Township Zoning Code, the Zoning Board hears and decides the following: (1) appeals from zoning interpretations or decisions of the Zoning Officer; (2) challenges to the validity of any land use ordinance or map (except for certain challenges to the validity of any ordinance which a landowner, under Pennsylvania law, is permitted to pursue before the Radnor Township Board of Commissioners); (3) variances from provisions of the Zoning Code which may relate to use or dimensional requirements of the Code; and (4) special exceptions where provided within the Zoning Code.

3. MEETINGS

The Zoning Board meets to conduct public hearings on submitted applications and to consider other business matters on the third (3rd) Thursday of every month at 7:00 P.M. in the Municipal Building at 301 Iven Avenue in Wayne. The Zoning Board from time to time, at the Zoning Board's discretion, may schedule additional meetings in order to accommodate a particularly large number of pending applications, or to conduct additional meetings for applications whose hearings have been continued. Time, date, and location of meetings are subject to change at the discretion of the Zoning Board. ***UNLESS SPECIFICALLY DETERMINED OTHERWISE BY THE ZONING BOARD, NO HEARING OR BUSINESS IS CONDUCTED DURING THE MONTH OF AUGUST.***

4. APPLICATION AND FEES

4.1 Application. Applicants who wish to appear before the Zoning Board must comply with the following minimum requirements:

4.1.1 Application forms are available through the Community Development Department. Applications must be filed on such forms (complete with all items specified in paragraph 4.1.2 below) no later than the date (“Filing Date”) prescribed by the Community Development Department for the hearing in question, which Filing Date shall reflect such advance time as the Community Development Department will determine is necessary to review all applications in advance of the hearing, and to publish public notice of such applications as may be required by law. The Filing Date will not be more than 30 days before the next regularly scheduled Zoning Board hearing at which the applicant wishes to have such application considered. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED, AND WILL NOT BE SCHEDULED OR ADVERTISED FOR HEARING BEFORE THE ZONING BOARD.

4.1.2 The applicant shall submit ten (10) copies of any application to the Zoning Board, such ten (10) copies to include ten (10) copies of all attachments required below, **electronic submittal in pdf format (cd or thumb drive)**, and any information which applicant otherwise shall elect to submit for consideration. All applications to the Zoning Board must include all of the following:

4.1.2.1 the name and address of the applicant;

4.1.2.2 the name and address of the owner of the real estate to be affected by the application;

4.1.2.3 the present zoning classification of the real estate to be affected by the application:

4.1.2.4 the relief sought, and/or basis for appearing before the Zoning Board, including specific citation to any and all sections of the Zoning Code which are relevant to the appeal;

4.1.2.5 to the extent of the applicant's knowledge, either a brief description of any previous decisions by the Zoning Board pertaining to the real estate in issue, or actual copies of such decisions;

4.1.2.6 photographs of the property at issue as well as all adjoining properties;

4.1.2.7 an engineered plan or survey of the property, drawn to scale, and prepared by a registered architect, engineer or surveyor licensed in Pennsylvania, which plan or survey must show all of the following: (a) all lot lines and lot dimensions, described by metes and bounds (in feet); (b) the total lot area; (c) the locations of all easements and rights of way, including the ultimate rights of way of roads or streets; (d) the location of all setback lines for existing and proposed structures; (e) the location of steep slopes, flood plains, riparian buffer areas, wetlands, and other pertinent features; (f) the location of existing improvements and of any proposed improvements; (g) a table of zoning data under the applicable zoning requirements for the property, including without limitation building coverage, impervious coverage, height, and other pertinent zoning restrictions, and specifying whether the existing and/or proposed improvements comply with such zoning requirements (or specifying the degree of any non-compliance); and (h) all other features or matters which are pertinent to the application.

Plans shall not exceed thirty six (36) inches by twenty four (24) inches, must be of material capable of being folded and filed as part of the record, and must be neatly folded to no greater dimensions than 8 ½” by 11” at filing;

- 4.1.2.8 any written reports which applicant wishes to submit from any professionals, consultants, architects or engineers, including any traffic studies, land planning reports, real estate appraisals, or other written reports;
 - 4.1.2.9 a copy of the deed, lease, agreement of sale, or other written authorization showing that the applicant has clear authority to appear before the Zoning Board and to seek such relief as is requested in the application (note that leases or agreements of sale must be accompanied by a letter of authorization from the property owner unless the lease or agreement of sale, by its own terms, clearly authorizes the tenant or buyer to pursue an application or appeal to the Zoning Board); and
 - 4.1.2.10 a brief narrative description of any improvements on the real estate which is the subject of the application, the present use thereof and the changes sought to be made by the applicant, including the size of any proposed improvements, material and general construction thereof.
- 4.2 In the event that the applicant wishes to submit professional reports or studies into the record, including traffic studies, land planning analyses, appraisals, engineering studies, flood plain analyses, or economic forecasts, then the person who authored such studies or reports, or a qualified representative of the entity which prepared or authored such studies or reports, must appear at the Zoning Board hearing, and be available for cross-examination, in order for such studies or reports to be accepted into the record.
- 4.3 In the event that the applicant (or a duly authorized officer of the applicant, if the applicant is not a natural person), does not intend to be present at the hearing, then a power of attorney, notarized and in recordable form, which clearly authorizes the person who will attend the hearing on behalf of the applicant to testify on behalf of the applicant, and to bind the applicant in any proceedings before the Zoning Board, must be presented at or before the commencement of the hearing. A form of power of attorney which has been approved by the Zoning Board Solicitor for use by individuals is available at the Community Development Offices. Note that an attorney, agent or other representative is not authorized to appear on behalf of an applicant to give testimony and to bind the applicant unless such attorney, agent or other representative has a power of attorney which complies with this section. Failure to comply with the requirements of this Section 4.3 in cases where the applicant (or a duly authorized officer of the applicant, if the applicant is not a natural person) is not present at the hearing, will result in the appeal being continued or dismissed, at the discretion of the Zoning Board.

5. PUBLIC NOTICE AND HEARINGS

- 5.1 Public Notice
 - 5.1.1 The Township advertises all Zoning Board meetings in accordance with both State and Township requirements. Notice is mailed to surrounding properties in accordance with the applicable provisions of the Zoning Code.
- 5.2 Hearings
 - 5.2.1 The Zoning Board conducts hearings in a courtroom fashion with sworn testimony presented and recorded by a court reporter. The applicant has the right to retain legal counsel, and indeed is strongly encouraged to do so in order to facilitate the presentation of an effective case before the Zoning Board. All other parties to the hearing also have the right to retain legal counsel.

- 5.2.2 The Chair of the Zoning Board, or if the Chair is not participating, such other Zoning Board Member who is presiding, oversees the conduct of each hearing, and may rule on the procedures to be observed by the parties and their witnesses, and may also rule on the admissibility of testimony or evidence.
- 5.2.3 The applicant presents testimony and evidence first, with members of the Zoning Board reserving the right to ask questions during the presentation or at any other time during the hearing process.
- 5.2.4 Those who wish to testify in favor of or against the application will be heard during the course of the hearing at the discretion of the Zoning Board. All parties and other witnesses who testify are subject to cross examination. Letters received by the Zoning Board prior to the hearing may be read into the record at the discretion of the Zoning Board.
- 5.2.5 The applicant has the responsibility for presenting a clear, effective and concise case before the Zoning Board. **THE ZONING BOARD WILL HAVE NO CHOICE BUT TO DENY THE RELIEF SOUGHT BY THE APPLICANT WHERE THE INFORMATION PRESENTED, FOR ANY REASON, IS DEEMED INSUFFICIENT TO ALLOW THE ZONING BOARD TO MAKE AN INFORMED DECISION.**

6.

PRE-HEARING MEMORANDA - BRIEFS

- 6.1 Briefs or memoranda of law may be furnished by any party with respect to any application, and shall be furnished to the Zoning Board where their filing has been requested by the Zoning Board, in accordance with the following rules:
 - 6.1.1 The applicant shall submit ten (10) copies of all briefs or memoranda of law within the time periods specified below. The Zoning Board shall have the discretion to refuse to allow into the record memoranda or briefs which are not filed and served in accordance with these rules.
 - 6.1.2 To the extent any person or entity has notified an applicant in writing that it is or proposes to be a party in opposition to the application, the applicant, simultaneously with filing any briefs or memoranda of law with the Community Development Department, shall serve a copy of such brief on such person or entity by regular mail.
 - 6.1.3 Any brief or memorandum of law which an applicant wishes to submit for consideration into the record shall be received by the Community Development Department at least fourteen (14) days in advance of any hearing at which the applicant wishes to have such brief or memorandum of law considered.
 - 6.1.4 In all applications involving a challenge to the validity of any provision of any ordinance, or involving any assertion that any provision of any ordinance is or may be limited or preempted by any other law of either the United States or the Commonwealth of Pennsylvania (including any claims under federal or state constitutional grounds, or by operation of any statute or law of the United States or the Commonwealth of Pennsylvania), the person asserting such challenge shall file with the Community Development Department, at least fourteen (14) days prior to the hearing on such challenge or assertion, a memorandum of law setting forth all legal and other theories asserted in support of such challenge, including citations to all constitutional provisions, statutes, cases or other legal authority in support of same.

6.1.5 Persons wishing to file briefs or memoranda of law in opposition to any application or challenge are encouraged to file such briefs or memoranda of law as far in advance of the hearing as possible. Such service, whether in advance of or at the hearing, shall consist of ten (10) copies of such briefs or memoranda for use by the Zoning Board and the Township, as well as an additional copy to be served upon the applicant on or before its service to the Zoning Board.

6.2 Copies of memoranda and briefs filed in any appeal shall be available for review by interested parties in the offices of the Community Development Department.

7. DECISIONS

7.1 The Zoning Board often will conduct an oral vote on an appeal immediately following the conclusion of a hearing; however both State and local law allow a maximum time period of forty-five (45) days following the hearing for the Zoning Board to vote and to render its formal written decision. A majority vote by the members of the Zoning Board present and voting is required for approval of an application.

7.2 The Zoning Board bases its decisions upon the testimony and other evidence presented at the hearing, relevant sections of the Zoning Code, as well as applicable provisions of the Municipalities Planning Code and relevant court decisions.

7.3 In most circumstances, the Zoning Board will issue its written decision on a date following the date that the Zoning Board votes on the application. ***A VARIANCE OR SPECIAL EXCEPTION AUTHORIZED BY THE ZONING BOARD WILL EXPIRE IF THE APPLICANT FAILS TO OBTAIN A BUILDING OR USE PERMIT WITHIN SIX (6) MONTHS FROM THE DATE THAT THE WRITTEN DECISION OF THE ZONING BOARD IS ISSUED, UNLESS THE APPLICANT WITHIN SUCH TIME PERIOD SHALL HAVE OBTAINED AN EXTENSION OF SUCH TIME PERIOD FROM THE ZONING BOARD. NOTE THAT THE ZONING BOARD IS NOT OBLIGATED TO GRANT ANY EXTENSIONS.***

7.4 **IN RENDERING ITS DECISIONS, THE ZONING BOARD IS CONSTRAINED BY THE EVIDENCE AND TESTIMONY, AS WELL AS BY ALL APPLICABLE REQUIREMENTS OF THE ZONING CODE AND PENNSYLVANIA LAW. THE ZONING BOARD IS NOT AUTHORIZED TO APPROVE APPLICATIONS WHICH LACK THE REQUISITE FACTUAL EVIDENCE, OR WHICH DO NOT MEET APPLICABLE LEGAL REQUIREMENTS. THE APPLICANT HAS THE BURDEN OF ESTABLISHING THE NECESSARY FACTUAL AND LEGAL BASIS FOR THE APPROVAL OF ANY APPLICATION. AN APPLICANT OR OTHER PARTY WHO IS NOT FAMILIAR WITH ZONING LAW AND PROCEDURE IS STRONGLY ENCOURAGED TO RETAIN COUNSEL IN ORDER TO BEST REPRESENT SUCH PARTY'S INTEREST IN PROCEEDINGS BEFORE THE ZONING BOARD.**

8. APPEALS

Parties before the Zoning Board who are aggrieved by any Zoning Board decision, including the applicant, neighbors, or the Township, have the right to file an appeal in the Court of Common Pleas within thirty (30) days from the issuance of the written decision of the Zoning Board.

9. **AUXILIARY AIDS**

Persons with a disability who require an auxiliary aid, service, or other accommodation are requested to contact the Community Development Director a minimum of fourteen (14) days prior to the public hearing.

10. **FEES**

Applicants are required to pay such fees for applications to the Zoning Board as are established from time to time in accordance with the Radnor Township Code. A current schedule of fees is available at the offices of the Community Development Department, and also may be accessed at the Township's website at www.radnor.com.

11. **DISQUALIFICATION**

Any member of the Zoning Board or the Zoning Board's Solicitor will disqualify himself/herself from participating in the hearing or disposition of any application or appeal if such member or the Solicitor considers that he/she is personally interested in the outcome of the application or appeal, or otherwise believes that such participation might give rise to an impermissible conflict under applicable law.

12. **SCOPE OF REQUIREMENTS; EFFECTIVE DATE**

- 12.1 These Requirements shall be broadly construed in order to give the Zoning Board the maximum discretion which it is authorized to exercise. Nothing in these Requirements shall abrogate or limit any additional requirements which may be provided under the Zoning Code, the Township's Subdivision and Land Development Ordinance, or any other applicable ordinance of Radnor Township.
- 12.2 These Requirements are subject to such amendments or modifications as hereafter shall be enacted by the Zoning Board from time to time.
- 12.3 These Requirements shall govern all applications first heard by the Zoning Board in January, 2006, or thereafter.