

## **INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD**

The Zoning Hearing Board ("ZHB") is an independent branch of local government that consists of residents of the Township, one of whom serves as its Chairperson. The Board is represented by an attorney who is called the Solicitor. The ZHB has jurisdiction of only those matters that are set forth in Section 909.1(a) of the Pennsylvania Municipalities Planning Code (the "MPC"). Jurisdiction includes matters such as substantive and procedural challenges to municipal land use ordinances, appeals from determinations by the Zoning Officer, requests for variances, applications for special exceptions, and appeals from a determination by Municipal Engineer or Zoning Officer with reference to administration of any flood plain or flood hazard ordinance or such provision within a land use ordinance relating to use or dimensional requirements.

After receiving a Zoning Application, the ZHB must hold a hearing within sixty (60) days unless the applicant waives this time requirement. The hearing must be advertised once a week for two (2) successive weeks in a newspaper of general circulation. The hearing must be advertised no sooner than thirty (30) days prior to the hearing and no later than seven (7) days prior to the hearing in accordance with the MPC. In addition, the property that is the subject of the zoning appeal must be posted, and neighboring land owners may be notified by mail of the hearing depending on current ordinance requirements. Some Townships may also require that the applicant appear before the Planning Commission to seek a recommendation from the Planning Commission which is then shared with the ZHB.

Although the ZHB is not required to follow the formal rules of evidence at its hearings, it conducts a formal hearing, similar to a court proceeding. A court stenographer is present to make record of the hearing. Members of the ZHB are not permitted to communicate either directly or indirectly with the applicant, his or her representatives, or any other person interested in the application, except at the time of the hearing. The ZHB, as a quasi-judicial body, may only hear and receive evidence that is given under oath and that is subject to cross-examination.

Neither an applicant nor an objector is required to retain an attorney for the preparation of the application or participation in the hearing; however, neither the ZHB nor its Solicitor can provide legal advice to participants at the hearing. It is the burden of the applicant to prove his or her case and to submit evidence that supports the application. It is not the responsibility of the ZHB to gather evidence or information for the applicant.

At the hearing, the applicant and other witnesses will first respond to questions posed by counsel. Thereafter, the applicant may be questioned by members of the ZHB and by citizens. The purpose is to ask questions about the testimony of the witness. An objector has the opportunity to present testimony later in the hearing. The objector will be subject to cross-examination by the applicant and is subject to questioning by members of the ZHB and its Solicitor.

The function of the ZHB is to receive information and evidence so that it can make a decision on the relief requested by the applicant. The applicant and any other interested person or party, whether in favor of or opposed to the Application, must be prepared at the time of the hearing to present information and evidence to the ZHB.

The ZHB will endeavor to make a decision at the conclusion of the last hearing; however, the law allows the Board forty-five (45) days from the date of the last hearing in which to make a decision. Some zoning appeals involve complicated issues that require more extensive thought and discussion by the ZHB prior to a decision. After a verbal decision is rendered, the ZHB Solicitor will prepare a written decision to be signed by all of the members of the Board who were present at the hearing. The written decision must be circulated within forty-five (45) days of the final hearing.

An applicant or an interested party who has entered its appearance as a party at the hearing may appeal the decision of the ZHB to the Court of Common Pleas, Chester County, Pennsylvania, within thirty (30) days of the date of this decision. One does not have to enter an appearance as a party in order to ask questions of witnesses.

The ZHB is not the governing body of the municipality. The ZHB can be considered to be the judicial branch of the local government for zoning matters that are separate and distinct from the governing body – which is the Board of Supervisors. The ZHB interprets land use ordinances and serves as the first avenue of appeal from determinations by the Zoning Officer.

– Members of the Zoning Hearing Board