

BOROUGH OF SEWICKLEY

Zoning Hearing Board Operating Procedures

The purpose of the Zoning Hearing Board is to hear and decide applications for special exceptions, variances, appeals from determinations made by the Zoning Officer and other matters. The Board gathers facts at a public hearing by taking testimony from the affected parties, and is charged with the legal responsibility of deciding whether to approve or disapprove the application. The Board will consider all relevant facts regarding the application, as well as evaluate its impact on the overall health and welfare of the community. When necessary, the Board can require special stipulations in connection with allowing special exceptions and variances. Only testimony taken during the hearing, and given under oath, is considered by the Board.

The Board does not make or revise the zoning ordinance. The zoning ordinance, and revisions to it, are prepared by the Planning Commission and adopted by Borough Council after they have held a public hearing. The Zoning Hearing Board is an interpretive body only. The Board follows some basic legal procedures in its hearings in order that the pertinent facts can be presented in an orderly and reasonable fashion by the applicant, the Zoning Officer and other citizens who wish to be heard. But the Board tries to be as informal as possible.

An application for a variance is quite different from an application for an appeal. In applying for an appeal, the applicant is asking the Board to decide whether a determination made by the Zoning Officer is correct under the zoning ordinance. The people in our community are legally entitled to this independent "second look" at matters decided by the Zoning Officer. In applying for a variance, however, the applicant is asking the Board for permission to do something that would otherwise violate the zoning ordinance -- something that your neighbors and other people in the community are not permitted to do.

Because of the extreme nature of a variance, the Board cannot grant a variance simply because the applicant wants it or would suffer some hardship without it. Rather, the Board must ordinarily find that (i) the zoning provision in question inflicts unnecessary hardship on the applicant because of unique conditions which are peculiar to the applicant's property, (ii) because of such unique conditions, the property cannot be developed in strict conformity with the zoning ordinance and, therefore, a variance is necessary to enable the reasonable use of the property, (iii) such

unnecessary hardship has not been created by the applicant, (iv) 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 (v) 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. The applicant has the burden of proving that all of these conditions to the granting of a variance are met.

The Board cannot properly serve those who seek its assistance unless it knows what it is being asked to do and is given the facts supporting the request. Applicants are therefore urged to read the application form very carefully before completing it and to provide all the required information in full, typewritten if possible so that the Board can read it. In the case of an appeal, the applicant should identify the determination being appealed and also state why he or she believes the determination was incorrect. If a variance is sought, the applicant should clearly state facts showing the requisite "unnecessary hardship" and the unique conditions giving rise to such hardship, and the other conditions to the granting of a variance.

Decisions on applications are made by the Board at a regularly scheduled meeting, and by law must be made within 45 days of the last hearing on a case. While all decisions are made at public meetings, no further discussion by the applicant or other parties is allowed at that time.