



VARIANCE APPLICATION INFORMATION CHADDS FORD TOWNSHIP, PENNSYLVANIA

INTRODUCTION

This document is intended to assist property owners by offering basic information about presentations before the Zoning Hearing Board.

Zoning is a method used by a community to regulate the use of land and structures. Zoning ordinances adopted by Chadds Ford Township were drafted in accordance with the Comprehensive Plan with community development objectives listed in Article I §135-3 of the Zoning Code. Among those objectives are: (1) to instill order in the growth and development of the Township, (2) recognize land as a valuable resource and allocate its uses judiciously so that it may be conserved, not wasted, and (3) to protect and conserve the unique and interesting natural and historic areas which are important to the community and offer cultural opportunities and enrichment to the people of the Township and the region.

The entire Zoning Code is available on the Township's website at chaddsfordpa.gov, then "How Do I..." then "Township Code." The Zoning Map is also available on the website and can help you verify the correct zoning district. Each zoning district has its own set of requirements and permitted uses. If the restrictions of a zoning district prohibit a property owner from building or making improvements to an existing structure, a "variance" may be requested, pursuant to §135-175. Please note that the property owner must prove "unnecessary hardship" to be successful in being granted relief. Please refer to an excerpt from the PA Municipalities Planning Code on the last page that sets forth those hardships.

Zoning ordinances can seem technical, and without proper guidance the average citizen may have difficulty with its interpretation. Township personnel will assist you with any procedural questions. If you intend to file a variance application and are having difficulty, you should consider consulting an attorney.

FILING A ZONING HEARING BOARD VARIANCE APPLICATION

The Township suggests that you meet with the Zoning Officer prior to submitting a variance application in order to review the process and to discuss any alternative options. If you decide to go forward with a variance request, application forms are available at the Township office or on the website under "How Do I..." then "Zoning Permits & Zoning Hearing Board Applications." In most cases, the owner of property is the applicant. Please make sure to meet all the requirements of the "Application Checklist" in the application packet.

Provide a written statement on the form describing the relief sought, as well as the grounds for same (prove hardship). The applicant should also provide a drawing, preferably to scale, with all the appropriate dimensions listed. This will help the Board understand what the applicant hopes to accomplish. Please refer to the Township's Fee Schedule for the application fee. The application fee is non-refundable.

Once a variance application has been filed, the Zoning Hearing Board (ZHB) solicitor and staff will schedule the hearing and draft and place the required legal advertisement; mail certified letters to adjacent property owners within 500 feet of your property, and schedule a court reporter. The Township Zoning Officer will "post" your property with a sign that gives notice of the hearing.

PRESENTING YOUR CASE TO THE BOARD

The Zoning Hearing Board is a quasi-judicial body and as such, a formal hearing will be held. Anyone presenting testimony on your behalf, including yourself, will be sworn in by the court reporter, who is present to create a formal transcript of the hearing. You will be given the opportunity to make your presentation and present evidence to the ZHB as to why your variance should be granted. It is also important to remember that you cannot modify your request because specifics of the variance request have already been advertised. You may find that it is helpful to present photographs to the Board because pictures are often more revealing than a drawing. If the variance that you are requesting affects your neighbors, you may wish to have the affected neighbors attend the meeting and testify on your behalf or submit letters in favor of your request.

You should remember that a variance is a request to permit something that is not authorized in the Zoning Ordinance. Such approval requires that a hardship be demonstrated. Proof of hardship in the legal sense is different from the common understanding of the term. For example, you may want to erect a deck in the side yard because you think it looks best there. However, side yard setback requirements are established to ensure a reasonable distance between your deck and your neighbor's home and structures. In order to comply with the code requirements, the Zoning Board may not permit a landowner to simply erect the deck within the side yard unless there are unique physical circumstances or conditions that create a hardship for the homeowner, and that no other options exist. Additional costs are not a legal hardship.

An applicant may request to continue a hearing for the purpose of presenting additional information and/or testimony. An additional fee is required.

The ZHB may or may not issue a decision at the conclusion of the hearing. The ZHB solicitor will provide a written determination and will advise you of appeal rights. If you are successful in receiving a variance, you must apply for a building permit within twelve (12) months or your variance will expire. A building permit will be issued based on the plan approved by the ZHB. No changes may be made to the approved plan.

RESEARCH AND PREPARATION

It is suggested that potential applicants attend a Zoning Hearing Board meeting to gain a better understanding of the process. Applicants should read the appropriate parts of the Municipalities Planning Code, which is on file at the Township. Section 604 gives the applicant some insight into the purposes of zoning. Section 908 explains how hearings are conducted and Section 910.2 explains the requirements for a variance. The Township Zoning Code also addresses the Zoning Hearing Board in Article XXII.

It is also permissible to review records and transcripts of other ZHB hearings that have been conducted regarding other properties in your community. Consider filing a Right to Know request with the Township to be able to review other variance applications, transcripts of the hearings and the decisions.

This document is not intended to be all-inclusive. Applicants who have special needs or requirements that are of a more technical nature should consult an attorney. It is inappropriate for an applicant to discuss an application with any members of the Zoning Hearing Board; however, any prospective applicant may and should contact the Township's Zoning Officer at 610-388-8800, ext. 103, or inspector@chaddsfordpa.gov to discuss their issues.

An appointment is required to drop off your application. Walk-ins will not be accepted. To schedule an appointment call 610.388.8800 or email info@chaddsfordpa.gov.

CHADDS FORD TOWNSHIP

**BASIC PROCEDURE FOR APPLYING FOR A VARIANCE HEARING
BEFORE THE ZONING HEARING BOARD IN CHADDS FORD TOWNSHIP**

- a. Meet with and discuss your issue with the Zoning Officer.
- b. Obtain and complete the Zoning Hearing Board Variance application.
- c. Schedule your appointment with the Township to drop off your application and all supporting documents. Call 610.388.8800 or email info@chaddsfordpa.gov to schedule your appointment.
- d. Submit the application and all supporting documents along with appropriate checks made payable to Chadds Ford Township (see Township Fee Schedule for fees). In order for an application to be complete, we must receive seven (7) collated sets to include the following information:
 1. The application (one copy must have an original notary seal; the others may be photocopies).
 2. The deed to the property or an agreement of sale. If the property is under an agreement of sale, the deed for the current owner must be submitted. If you do not have a copy of your deed, contact the Recorder of Deeds Office, Court House, Media.
 3. Supporting documents, including plot plans, photographs, and any letters of support from neighbors. Packets are distributed to Zoning Hearing Board members in advance of the meeting. The more useful information that you submit with your application, the more informed the ZHB members will be about your case.
- e. You may represent yourself or have an attorney (or anyone else) represent you.
- f. You may have your engineer/design professional/architect, or others appear on your behalf.
- g. The Zoning Hearing Board has forty (45) days to render a decision after the conclusion of the hearing; however, a decision also may be rendered prior to conclusion of the hearing.
- h. If granted, you must act on the approval within one (1) year of the decision. This usually means applying for a building permit before the year is up.

AN EXCERPT FROM THE PA MUNICIPALITIES PLANNING CODE

Section 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.

CHADDS FORD TOWNSHIP
ZONING HEARING BOARD

**Application for Special Exception, Variance,
Interpretation under Zoning Ordinance
or Appeal**

See Application Checklist on Page 4

Applicant or Appellant:

Name _____

Firm _____

Address _____

Tel: _____ Fax: _____

email: _____

Relationship to Owner:

Owner (if different from Applicant):

Name _____

Firm _____

Address _____

Tel: _____ Fax: _____

email: _____

Attorney for Applicant:

Name: _____

Firm: _____

Address _____

Tel: _____ Fax: _____

email: _____

Engineer: (if any)

Name: _____

Firm: _____

Address: _____

Tel: _____ Fax: _____

Email: _____

PROPERTY:

Exact location of Property: _____

Zoning Classification: _____ Date Acquired: _____

Present Use: _____

Proposed Use: _____

Dimensions of Lot: _____ Square Footage of Lot: _____

Distance to Each Boundary

Before Construction:

North _____ South _____ East _____ West _____

After Construction:

North _____ South _____ East _____ West _____

Distance to Boundaries and Rights of Way

Before Construction:

After Construction:

Front Yard: Boundary _____ Right of Way _____ Boundary _____ Right of Way _____

Rear Yard: Boundary _____ Right of Way _____ Boundary _____ Right of Way _____

Side Yards: Boundary _____ Right of Way _____ Boundary _____ Right of Way _____

Dimensions of Proposed Construction (if any):

Height _____ Width _____ Depth _____

Square Feet

First Floor _____ Second Floor _____ Additional _____

Percentage of open area remaining on the lot on completion of construction: _____

Ratio of Lot Coverage to Open Area: *Before Construction:* _____ *After Construction:* _____

Type of Construction (if any): _____

Estimated Cost: _____

Contractor (if any):

Name: _____

Tel: _____ Fax: _____

Firm: _____

Email: _____

Address: _____

Architect (if any):

Name: _____

Tel: _____ Fax: _____

Firm: _____

Email: _____

Address: _____

Adjoining or Abutting Properties and Use:

Name: _____

Name: _____

Address: _____

Address: _____

Use: _____

Use: _____

Name: _____

Name: _____

Address: _____

Address: _____

Use: _____

Use: _____

Name: _____

Name: _____

Address: _____

Address: _____

Use: _____

Use: _____

If additional properties, continue on separate sheet and check here _____

Order or Decision Appealed From _____

Date of Application _____ Date of Order (or Decision) _____

This Proceeding is based on the following Chadds Ford Township Zoning Ordinances:

Section(s) Subsection(s) _____

Interest of Applicant or Appellant in Property: _____

Statement of Relief Sought (Reason for Application or Appeal): _____

Statement of Grounds for Application or Appeal: _____

Statement of Objections to Findings or Conclusions or Order of Decision Appealed from: _____

Check Applicable Averment:

_____ **Special Exception:** Applicant or Appellant avers that the Special Exception applied for is in harmony with the general purpose and intent of the Zoning Ordinance of Chadds Ford Township and unless granted, Applicant or Appellant will be deprived of the full lawful use of the herein described property.

_____ **Variance:** Applicant or Appellant avers that unless the Variance herein applied for is granted, unnecessary hardship will result to Applicant or Appellant resulting in great loss in preventing the full use or disposal of the herein described property.

_____ **Other:** _____

Other Conditions: _____

Additional Comments: _____

An appointment is required to drop off your application. Call 610.388.8800 or email info@chaddsfordpa.gov to schedule.

APPLICATION CHECKLIST

Please include the following with this application, and make checks payable to: Chadds Ford Township

_____ Applicable Zoning Hearing Board Fee (Fees can be found in the annual Township Fee Resolution).

_____ Seven (7) copies and one (1) electronic copy in .pdf format of each of the following:

_____ Completed Application Form (include 1 original, signed and notarized application)

_____ Copy of the DEED of the premises described herein

_____ Copy of the LEGAL DESCRIPTION of the premises described herein if different from the DEED

_____ Copy of the original ZONING PERMIT APPLICATION made to the Zoning Officer

_____ Copy of the ORDER or DECISION appealed from if different from ZONING PERMIT APPLICATION

_____ A copy of a Site Plan, Plot Plan or Survey depicting the entire property effected by the Application, the existing buildings, improvements and structures located on such property, and any proposed changes or additions to the existing buildings, improvements or structures located on such property and any new buildings, improvements or structures proposed to be constructed or erected on such property. The Site Plan, Plot Plan or Survey must contain accurate distance, area, length, height, width, location, ratio and other applicable and appropriate measurements of the effected property, buildings, improvements and structures as proposed, and depict the relationship of the adjoining or abutting properties (22" x 34" or greater in size)

COMMONWEALTH OF PENNSYLVANIA)

SS:

COUNTY OF DELAWARE)

AFFIDAVIT

_____, being duly sworn according to law, deposes and says that he/she is the Applicant or Appellant herein (or that he/she is one of the Applicants or Appellants herein and is authorized to make this Affidavit on behalf of all the Applicants or Appellants herein), (or that he/she is an officer, employee or agent of the Corporate Applicant or Appellant herein and as such officer, employee or agent of such Corporate Applicant or Appellant is authorized to make this Affidavit on its behalf), and that the facts set forth herein are true and correct to the best of his/her knowledge, information and belief.

Applicant or Appellant (SEAL)

Sworn and subscribed before me this _____ day of _____, 20____

Notary Public