

# An Applicant's Guide to Special Exceptions and Variances

***PLEASE NOTE: Non-refundable application fee of \$1,000 required at time of application.***

Applying for a hearing to receive a special exception or variance involves many steps. This guide is designed to answer the most frequently asked questions.

- 1. What is a special exception?** A special exception is mis-named. It's neither special nor an exception. A special exception is an allowed use of a property, provided advance authorization is granted by the Zoning Hearing Board (ZHB). A property owner has the right to receive a special exception once the property owner proves he can meet the performance standards of the ordinance. For example, if the performance standard says a use has to provide two off-street parking spaces, the property owner has to demonstrate s/he can provide the two spaces. Once the property proves s/he can meet the standards, the ZHB is obligated to grant the special exception. The ZHB may impose reasonable conditions on the use.
- 2. What is a variance?** A variance is a request to use a property in a manner that does not conform to the ordinance. This can range from an actual use (use variance), such as creating a convenience store in the Agriculture District, to asking to encroach on a setback (dimensional variance). Under state law the ZHB can only grant a variance when certain conditions exist on the lot. These conditions would create a hardship, which the property owner has to prove to the satisfaction of the ZHB. The following statements are never hardships under the law: "I want to," "I can't afford it," "My neighbor has no problem with it."
- 3. What role does the Zoning Hearing Board play?** The ZHB acts as an independent, quasi-judicial body to hear applications for special exceptions and variances. Think of the ZHB as the judges of a case. The ZHB hears testimony and receives evidence. Based on that information the ZHB renders a decision, also known as a zoning order. The ZHB can impose reasonable conditions if it grants a request.
- 4. How does a zoning hearing work?** The ZHB must hold a hearing within 60 days of an application. The hearing is advertised in the newspaper and your adjoining neighbors will receive a letter informing them of the hearing. Honey Brook Township's ZHB hears cases on the third Monday of the month. At the hearing, you will present your case to the ZHB in the form of evidence and testimony. You want to convince the ZHB to grant your request. The Township is always and automatically a party to your application. Other people may request to become a party to the application. A party is someone who has an interest in how things turn out. For instance, if your neighbor requested a variance to build a junkyard on his property, you could become a party to the application and oppose it. Being a party means you can appeal the ZHB's decision to the county court if you don't like it.

5. **Do I need an attorney to represent me?** An attorney isn't required, but can often be helpful. At the least you may want to consult with an attorney prior to submitting your application to make sure you covered everything.
6. **What happens after I submit my application?** The Township's Planning Commission (PC) and Board of Supervisors (BOS) examine the application prior to the hearing. Remember the Township is always and automatically a party to your application. The PC and BOS get information to determine what position the Township will take in front of the ZHB. The Township can take one of three positions: opposed, no position, or support. The Township and the Zoning Hearing Board are two separate agencies.
7. **What meetings do I have to attend?** After you submit your application, the PC will review it at a public meeting. The Township Manager will inform you of the date and time. You should be at the meeting and inform the PC about your application. The PC will recommend the Township's position to the BOS. The BOS will also review your application. It will vote on the Township's position. You should plan to be at the BOS meeting. After the BOS meeting, the ZHB will conduct your hearing.
8. **If the Township opposes my application, does that mean it won't be granted?** No, but it certainly makes it more challenging for you. Remember, the ZHB is independent, and it has to follow the state law on special exceptions and variances. Obviously, you would prefer the Township to support or take no position on your application, but the ZHB will render a decision based on the law and the testimony and evidence you supply. If the ZHB grants your request after the Township opposed it, you should anticipate an appeal to the county court.