

statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

ARTICLE III  
Zoning Hearing Board

**§ 172-7. Appointment; composition. [Amended 1-4-1982 by Ord. No. 1982-1]**

The Board of Supervisors shall appoint the Zoning Hearing Board consisting of five (5) members as provided by law.

**§ 172-8. Powers. [Amended 11-14-1994 by Ord. No. 1994-4]**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to 53 P.S. §§ 10609.1 and 10916.1(a)(2).
  - (2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  - (3) Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - (4) Appeals from a determination by a Municipal Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
  - (5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to 53 P.S. § 10910.2.
  - (6) Applications for special exceptions under the zoning ordinance or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to 53 P.S. § 10912.1.
  - (7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
  - (8) Appeals from the Zoning Officer's determination under 53 P.S. § 10916.2.
  - (9) Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to

sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the Pennsylvania Municipalities Planning Code.

- B. The governing body or, except as to Subsections B(3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII pursuant to the provisions of 53 P.S. § 10702.
  - (2) All applications pursuant to 53 P.S. § 10508 for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this subsection.
  - (3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to 53 P.S. § 10603(c)(2).
  - (4) Applications for curative amendment to a zoning ordinance pursuant to 53 P.S. §§ 10609.1 and 10916.1(a)(2).
  - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in 53 P.S. § 10609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
  - (6) Appeals from the determination of the Zoning Officer or the Municipal Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development under Articles V and VII of the Pennsylvania Municipalities Planning Code. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Municipal Engineer shall be to the Zoning Hearing Board pursuant to Subsection A(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this subsection shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.
  - (7) Applications for a special encroachment permit pursuant to 53 P.S. § 10405 and applications for a permit pursuant to 53 P.S. § 10406.

**§ 172-9. Rules. [Amended 11-14-1994 by Ord. No. 1994-4]**

The Zoning Hearing Board shall make rules, consistent with township ordinances or laws of the commonwealth, as to the manner of filing appeals or applications for special exceptions or for variances from the terms of this chapter.

**§ 172-10. Meetings.**

Meetings of the Zoning Hearing Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicate such facts and shall keep records of its examinations and of the official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

**§ 172-11. Appeals. [Amended 11-14-1994 by Ord. No. 1994-4]**

Appeals and applications to the Zoning Hearing Board may be taken by any person aggrieved by a decision hereunder in the manner and within the time limits specified by the Pennsylvania Municipalities Planning Code<sup>3</sup> and regulations of the Zoning Hearing Board.<sup>4</sup>

**§ 172-12. Public hearing; notice. [Amended 11-14-1994 by Ord. No. 1994-4]**

- A. Upon the filing with the Zoning Hearing Board of an appeal or of an application for special exception or for variance from the terms of this chapter, the Board shall fix a reasonable time and place for a public hearing thereon and shall give public notice thereof, as well as due notice to the parties in interest and shall decide the same within a reasonable time. Any party may appear at the public hearing in person or by attorney. The notice of public hearing shall state the location of the building or lot and the general nature of the question involved and shall be given as follows:
- (1) By publishing a notice thereof once a week for two (2) weeks in a newspaper of general circulation published in the township.
  - (2) By serving a notice thereof on the Township Secretary and on the Board of Supervisors.
  - (3) By serving a notice thereof upon the owner, if his residence in the township is known, and upon the tenant or occupier of every house on the same street within two hundred (200) feet of the lot or building in question and of every house not on the same street within one hundred (100) feet of such lot or building, provided that failure to give notice required by this section shall not invalidate any action taken by the Zoning Hearing Board.
- B. The applicant shall cause notice of said hearing to be conspicuously posted on the affected property at least one (1) week prior to the hearing. Failure to maintain the posted notice as required shall result in the postponement of the hearing until such requirement is met. In the event of a postponement of the hearing, the applicant shall pay the same fees for the postponed hearing as for a continuance.

<sup>3</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>4</sup> Editor's Note: Former Section 1327.06, dealing with fees for appeals, which immediately followed this section, was repealed 11-12-1979 by Ord. No. 1979-7.

**§ 172-13. Show of proof. [Amended 9-8-1980 by Ord. No. 1980-14]**

- A. Where an application for a special exception is made, the applicant shall have the burden of showing that the proposed use is appropriate and in harmony with the general purpose and intent of this chapter. Specifically, the applicant shall show the following:
- (1) That his application falls within the provision of this chapter which accords to the applicant the right to seek a special exception.
  - (2) That the use is not prejudicial to the character of the immediate vicinity and will not have a detrimental effect on neighboring properties.
  - (3) That the use is suitable for the property in question and is designed, constructed, operated and maintained to be in harmony with and appropriate in appearance with the existing or intended character of the immediate vicinity.
  - (4) That water, sewage, stormwater drainage, fire and police protection are or can be provided for the use.
  - (5) That the use is physically suitable for the site and there are not topographical, soil, geologic, drainage or environmental features which would cause the proposed development to adversely affect the health, safety and welfare of the neighboring property or the township.
  - (6) That the use is consistent with the statement of community development objectives of the Township Planning Study, adopted December 31, 1971, as amended and/or supplemented.
- B. In all cases the applicant's burden of proof shall include the duty of presenting credible evidence sufficient to persuade the Zoning Hearing Board that the applicant has satisfied the criteria set forth in §§ 172-14A and B.

**§ 172-14. Special exceptions.**

- A. [Amended 9-8-1980 by Ord. No. 1980-14] General standards. In determining whether the allowance of the special exception is contrary to the public interest, the Zoning Hearing Board shall consider whether the application, if granted, will:
- (1) Substantially increase traffic congestion on streets to such a high degree of probability that it will adversely affect the health, safety and welfare of the community;
  - (2) Increase the danger of fire or panic or otherwise endanger the public safety;
  - (3) Overcrowd the land or create an undue congestion of population;
  - (4) Impair stormwater management or cause soil erosion;
  - (5) Impair an adequate supply of light and air to adjacent property;
  - (6) Be consistent with the character of the surrounding zoning land areas;
  - (7) Be detrimental to other properties in the area;

- (8) Affect the character of the immediate neighborhood by failing to conserve the values of existing buildings and to encourage the most appropriate use of the land;
  - (9) Adversely affect the community development objectives as set forth in this chapter;
  - (10) Adversely affect off-street parking;
  - (11) Substantially burden water, sewers, groundwater, school, parks and other public facilities; and/or
  - (12) Otherwise adversely affect the public health, safety, morals or public welfare.
- B. Specific standards. The following are specific physical requirements governing the granting of special exceptions:
- (1)<sup>5</sup> Nonprofit clubs or lodges in residential districts shall be permitted only under the following limitations:
    - (a) Where the clubs or organizations propose the operation of a swimming pool, it shall either own or have available for its use a tract of land in one (1) piece of not less than ten (10) acres devoted and committed exclusively for swimming pool purposes.
    - (b) The Zoning Hearing Board shall determine whether or not appropriate arrangements can be made for the following items and, if so, shall impose conditions and restrictions with respect to:
      - [1] Location of pool and buildings such as club, change or pump house on tract.
      - [2] Hours of operation.
      - [3] Off-street parking facilities.
      - [4] Lighting.
      - [5] Amplification system.
      - [6] Landscaping.
      - [7] Sanitary and safety regulations and noise control.
      - [8] Allied activities.
      - [9] Number of members.
      - [10] Drainage regulations.
      - [11] Regulations governing water supply.
      - [12] Operation of pool including requirements for lifeguards, watchmen or supervisors.
      - [13] Such other regulations as may be determined by the Board.

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<sup>5</sup> Editor's Note: Former Subsection 1327.09(a), which immediately preceded this subsection, was repealed 1-6-1986 by Ord. No. 1986-1.

- (2) A golf course may be permitted on a tract of land of not less than one hundred (100) acres for an eighteen-hole course and not less than fifty (50) acres for a nine-hole course when all of such land is devoted and committed exclusively for golf purposes. The Board, in granting an exception, shall require appropriate conditions and provisions with respect to:
- (a) Location of golf course on tract as well as location of clubhouse and parking facilities.
  - (b) Hours of operation.
  - (c) Off-street parking facilities.
  - (d) Outside lighting.
  - (e) Outside amplification system.
  - (f) Allied activities.
  - (g) Number of members.
  - (h) Drainage regulations.
  - (i) Such other regulations as may be determined by the Board.
- (3) Nonprofit clubs conducting activities other than swimming pools and golf courses shall be required to provide adequate off-street parking for members and guests of the club and shall submit to the Board a plan showing the proposed operation of the club, the construction and location of the building to be used for the purposes of the club, including parking facilities, and if the Board is satisfied that the club may be operated in a residential community without being detrimental thereto, an exception may be granted for the use of the property or building by such nonprofit club. [Amended 9-8-1980 by Ord. No. 1980-17]
- (4) [Amended 9-8-1980 by Ord. No. 1980-16] Professional offices in residence districts shall:
- (a) Not exceed thirty percent (30%) of the gross floor area of the building.
  - (b) Be contained within the principal dwelling of the professional.
  - (c) Not employ more than three (3) persons other than the resident occupant of the property.
  - (d) Provide adequate off-street parking for both employees and clients.
  - (e) Provide landscape buffering with abutting residential uses.

§ 172-15. Appeal to court.

Any person or persons jointly or severally aggrieved by any decision of the Zoning Hearing Board or any taxpayer or any Supervisor of the township may appeal to the County Court of Common Pleas by petition, duly verified, setting forth that such decision is illegal in whole or

in part and specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board.

**§ 172-16. Expiration of special exception or variance.**

Unless extended by the Zoning Hearing Board or otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within six (6) months from the date of the granting thereof.

**§ 172-17. Table of special exceptions.**

The following are references to specific special exceptions as provided for in the Zoning Ordinance:

District or Subject	Section	Description
R-1, R-1A, R-2 and R-3 Residence Districts	§ 172-29A(1)(c)	Nonprofit school, church, religious or philanthropic use, excluding residential clientele
	§ 172-29A(1)(d)	Nonprofit club, excluding residential clientele
	§ 172-29A(1)(g)[1]	Multistory garage as an accessory use
R-1 Residence District	§ 172-29A(1)(g)[2]	Professional office as an accessory use
R-4 and R-4A Residence District	§ 172-37C(4), § 172-44A	Professional office as an accessory use
A-O Apartment Office District	§ 172-58C	Recreational use as an accessory use
	§ 172-59G	Building frontage, length, depth and attachment angle
	§ 172-60G	Mixed use of apartments and service offices
C-1 Commercial District	§ 172-70G	Building used as restaurant, cafe, catering establishment or for food cooking or dispensing for off-premises consumption

District or Subject	Section	Description
C-2 Commercial District	§ 172-70L	Building used as public garage, motor vehicle service station, sales agency, repair shop or battery service station
	§ 172-70M	All accessory uses
	§ 172-74F	Building used as restaurant, cafe or catering establishment
	§ 172-74I	Motor vehicle repair shop and/or outdoor garden center as accessory to retail store
	§ 172-74K	All accessory uses
	§ 172-74L	Outdoor or unenclosed uses
Setbacks	§ 172-107	If setbacks are greater than minimum in any district or less than 20 feet in commercial districts
R-1, R-2, R-3 Residence and SU-1 and SU-2 Special Use Districts	§ 172-111	Building conversion into two-family or multi-family dwelling
Signs	§ 172-127B	Nonconforming signs
Outdoor lighting	§ 172-129A	Height increase over 25 feet for areas over 50,000 square feet
Prior off-street parking	Appendix A	Minimum spaces required (but may not in fact be possible)
Nonconforming uses	§ 172-141B	Extension of nonconforming use
	§ 172-141C	Changes to nonconforming use of building or land