

# Lycoming County Zoning Program: To Lycoming County Zoning Hearing Board

## FORM #2

COMPLETE IN FULL Additional Pages as Needed	VARIANCE REQUEST Please Print Only – Use Black Ink Pen	ZONING PERMIT NUMBER
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Citations that apply to General Standards for a Variance can be found on page two (2) of this application.

For Appeal Request(s) use Form #3

1. Applicants Name \_\_\_\_\_ Phone Number \_\_\_\_\_  
(First) (Last)
- Address \_\_\_\_\_  
(Street)
- \_\_\_\_\_  
(City) (State) (Zip Code)

**Applicant acknowledges all information is correct and accurate to the best of their knowledge. Applicant agrees not to initiate this proposed project until a municipality-issued permit is obtained.**

Date of application \_\_\_\_\_ Applicant's Signature \_\_\_\_\_

2. Name of Township/Borough \_\_\_\_\_ Tax Parcel Number \_\_\_\_\_
- Site Address \_\_\_\_\_  
(Street) (City) (State) (Zip Code)

3. Zoning District \_\_\_\_\_
- Existing Use(s) \_\_\_\_\_
- Proposed Use(s) \_\_\_\_\_
- Type of Activity (Description) \_\_\_\_\_

4. Specify the section(s) of the Zoning Ordinance that apply to your Variance request in the space provided below:

\_\_\_\_\_

\_\_\_\_\_

## ARTICLE 30

### ZONING HEARING BOARD

This ARTICLE sets forth the procedures and conditions for applications, review, and granting of variances and appeals.

#### SECTION 30.2.1

#### ZONING HEARING BOARD FUNCTIONS

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.

**Include a description of how subsection(s) below apply to specific variance request:**

- A. No variance from the provisions or requirements of this Ordinance shall be authorized by the Zoning Hearing Board unless the Board finds that all the following facts and conditions exist:
1. 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, 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.  

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  2. 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.  

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  3. An unnecessary hardship has not been created by the appellant.  

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  4. 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.  

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  5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification of the regulation in issue.  

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In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

*Commentary: Variances should not be used to grant a change in zoning by allowing uses that are not permitted in a zoning district. Such requests should follow the zoning amendment procedures, since changing the allowed uses in a zoning district may have a significant impact on the character of the zoning district.*

#### **A. Parties Appellant Before the Board**

Requests for a variance may be filed with the Zoning Hearing Board by any landowner or an authorized agent of such landowner. Appeals from a decision or interpretation of the Zoning Officer and proceedings to challenge the validity of the Ordinance may be filed with the Zoning Hearing Board by any aggrieved person. Such an appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Hearing Board. The Zoning Officer shall forthwith transmit to the Zoning Hearing Board all of the papers constituting the record of the action upon which the appeal was taken.

#### **B. Time Limitations**

No person shall be allowed to file any variance or appeal proceedings with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate officer, agency or body if such proceeding is designed to secure reversal or limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such action had been taken.

#### **C. Applications Required**

All variance requests and appeals made to the Zoning Hearing Board shall be in writing and in such form as may be prescribed by the Zoning Officer. Each variance request or appeal shall refer to a specific provision of this Ordinance and shall exactly set forth the interpretation that is claimed or shall include all information requested on the form and any additional information that is reasonably necessary as requested by the Zoning Officer.

#### **D. Procedure for Zoning Officer**

The Zoning Officer shall transmit the completed petition form and information constituting the basis for the variance or appeal, along with all documents on the matter, to the Lycoming County Zoning Hearing Board. The Zoning Officer may recommend to the Zoning Hearing Board a modification or reversal of his action in cases where he believes substantial justice requires the same, but when he does not have authority to grant the relief sought.

#### **E. Fees**

Each petition for a variance or an appeal from a determination of the Zoning Officer shall be accompanied by a fee payment, as set by the Lycoming County Commissioners to cover the cost of the procedure as provided by law.

## **F. Hearings**

1. The Zoning Hearing Board, before rendering a decision, shall hold hearings on any variance, challenge, or appeal requiring the Zoning Hearing Board's decision or other official action. Upon filing a variance, challenge, or appeal request with the Zoning Hearing Board, the Board shall, within sixty (60) days of receipt of the complete application, fix a reasonable time and place to hold a public hearing thereon, giving notice as follows:
  - (a) Publish public notice in accordance with the definition of "Public Notice" in Article 30, Section 30.1.4.1.1 of this Ordinance.
  - (b) The property shall be posted conspicuously with a notice of the hearing at least seven (7) days prior to the date of the hearing. The sign shall contain the date of the hearing, a short description of the hearing, and a phone number to call for information.
  - (c) Give written notice to the applicant, the public, the local Planning Commission, and to any person who has made a timely request for the same, at least seven (7) days prior to the hearing date, of the time, place, and purpose of the public hearing. Written notice shall be given to the secretaries of the municipal governing body and planning commission at least thirty (30) days prior to the hearing date to allow for municipal comment.
2. During the hearing, any party may appear in person or by agent or attorney.

## **G. Stay of Proceedings**

An appeal to the Zoning Hearing Board shall stop all proceedings in furtherance of the action appealed unless the Zoning Officer or other appropriate agency has certified to the Zoning Hearing Board, after notice of appeal has been filed, that by reason of facts stated in certificate a stay would imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Hearing Board or by the court having jurisdiction, on petition, after notice to the Zoning Officer and any other appropriate agency.

## **H. Withdrawal of Appeal or Variance Request**

A petitioner may withdraw his appeal or application at any time prior to decision thereon; but if a motion is pending to grant, deny, or dismiss the appeal, such motion shall have precedence. Withdrawal shall not entitle the appellant, applicant, or petitioner to the return of the filing fee.

## **I. Final Decision by the Zoning Hearing Board**

The Zoning Hearing Board shall establish findings of fact and an order to grant the appeal or variance request with conditions, modify, or reverse. If the Zoning Hearing Board attaches conditions, modifies, or reverses, it shall do so only where the record of the hearing indicates that the Zoning Officer was unsupported by the record or that the proposed order is not in conformance with the standards of this Division.

The written decision or findings of the Zoning Hearing Board shall be rendered within forty-five (45) days after the date of the last hearing on said application. A copy of the final decision or findings shall be provided to the applicant and all interested parties no later than the day following its publication.

**J. Failure to Hold Required Hearing or Render Decision**

If the Zoning Hearing Board fails to hold the required hearing or render a decision within the prescribed time periods, a decision shall be rendered in accordance with the provisions of Section 908(9) of the Pennsylvania Municipalities Planning Code.

**K. Expiration of Variance Decision**

Variance approvals shall be valid a period of one (1) year from the date of approval. If the proposed development is not completed within one (1) year of approval, the applicant shall submit a new application for a variance and shall require approval thereof.

**L. Court Review**

Any person aggrieved by any decision of the Zoning Hearing Board may appeal there from within thirty (30) days to the Court of Common Pleas of Lycoming County pursuant to the procedures established in Article X-A of the Pennsylvania Municipalities Planning Code, as amended.