

Pequea Township

Zoning Hearing Board Application

Application Type: Special Exception Variance Appeal from Determination

Please Read the Following:

Please complete each part of this application and pay the application fee of \$1,250.00 (Resident) or \$1,350.00 (Non-Resident) (Make check payable to Pequea Township)

Section 1705.3 (Special Exception), or 1705.4 (Variance) of the Pequea Township Zoning Ordinance requires that each application must be accompanied with a number of items, including:

- A site plan with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of the Ordinance.
- Please submit eight sets of plans.
- Sign the application.

If you do not submit everything that the Ordinance requires, your hearing may not be scheduled or your application may be denied for failure to comply with these requirements.

This application is a legal document to be utilized in a quasi-judicial hearing. Solanco Engineering Associates does not provide legal advice and cannot assist in the completion of this application. Applicants shall seek legal counsel and/or services of a land planning consulting firm for assistance if required.

Name of Applicant: _____

Address of Applicant: _____

Phone Number of Applicant: _____ Email: _____

Owner's Name (*print*) and Signature of Owner: _____
(I authorize the Applicant to make this application)

Address of Owner: _____

Address of property involved: _____

In what zoning district is the property located? _____

Variance Request: (complete only if applying for a *Variance*)

Explain the purpose for which a Variance is being sought: _____

What section(s) of the Zoning Ordinance are impossible for you to comply with? _____

What is the hardship on which your application is based? _____

How does the hardship prevent you from using your property in a manner permitted by the Zoning Ordinance? _____

Special Exception Request: (complete *only* if applying for a *Special Exception*)

Explain the purpose for which a Special Exception is being sought: _____

What section(s) of the Zoning Ordinance allow the Special Exception that you are requesting? _____

Appeal from Determination or Notice of Violation: (complete *only* if applying for an *Appeal*)

What is the decision you are appealing from? _____

What is the date of the decision that you are appealing from? _____

If you are appealing a Notice of Violation, attach the notice to this appeal form.

Please read and agree to the following:

- I have read Section 1705.3 (Special Exception) and/or Section 1705.4 (Variance) of the Pequea Township Zoning Ordinance, and I know what I must do in order to submit a complete application.
- I have included eight sets of scaled drawings, drawn to scale, showing the actual dimensions and shape of the lot, the size, location and dimensions of the proposed use, building or alteration.
- My application includes a written description of the proposed use.
- I have read Section 1705.3 (Special Exception) and/or Section 1705.4 (Variance) of the Pequea Township Zoning Ordinance regarding Special Exceptions and/or Variances.

I hereby apply for a Variance and/or Special Exception. I agree to pay the filing fee and understand that I have no right to expect a hearing to be scheduled until I have paid the fee and filed the necessary documentation as required by the Pequea Township Zoning Ordinance. I have read the forgoing and affirm that it is true and correct and to the best of my personal knowledge, or information and belief. I verify that all the statements made in the forgoing are true and correct and that false statements may subject me to the penalties of 18 Pa. C.S. Section 4904.

Applicant's Signature: _____ Date: _____

ADDENDUM to the APPLICATION

Please remember that you are responsible for paying one-half of the court reporter fee for each date of the hearing until a decision is reached and officially rendered.

Return to:

**Mark A. Deimler, PE, Building Code Official/Zoning Officer
Solanco Engineering Associates
103 Fite Way, Suite C
Quarryville, PA 17566**

Phone: 717-786-0355

3. The Zoning Hearing Board shall commence its hearings within sixty (60) days after the request is filed, unless the landowner requests or consents to an extension of time.
4. The Zoning Hearing Board shall render its decision within forty-five (45) days after the conclusion of the last hearing. If the Board fails to act on the landowner's request within this time limit, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

1705.2. Challenges to the validity of the Zoning 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 the Ordinance.

1705.3. Special Exceptions, as provided for in this Ordinance and subject to all applicable requirements, including, but not limited to:

1. Filing Requirements - In addition to the required zoning permit information (see Section 1803) each special exception application shall include the following:
 - A. Ground floor plans and elevations of proposed structures;
 - B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
 - C. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
 - D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.
2. General Criteria - Each applicant must demonstrate, by credible evidence, compliance with the following:
 - A. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance.
 - B. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.
 - C. The proposed use will not substantially change the character of the subject property's neighborhood.

- D. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water and other utilities, parks, solid waste disposal, vehicular access, etc).
- E. The proposed use shall comply with those criteria specifically attached to it. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance.
- F. The traffic generated by the proposed use shall be safely and adequately accommodated during peak and non-peak periods, or improvements made by the applicant shall be made in order to effect the same.
- G. The proposed use shall be in and of itself properly designed with regard to internal circulation, parking, buffering, screening, and all other elements of proper design as required by this Ordinance and any other Federal, State, or local ordinance, law, or regulation.
- H. The proposed use will not have deleterious impact on adjoining properties or the neighborhood due to impacts and/or by-products of the proposed use, such as noise, dust, odor, smoke, litter, glare, heat, radiation, electromagnetic interference, etc.
- I. The proposed use will not substantially impair the integrity of the Comprehensive Plan.
- J. The proposed development is in accordance with the Pequea Township Floodplain Management Ordinance. (Amended by Ordinance #194-2016)

3. Conditions - The Zoning Hearing Board in approving special exception applications may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 18.

4. Site Plan Approval - Any site plan presented in support of the special exception pursuant to Section 1705.3.1.c shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change made after the issuance of a zoning permit to the proposed use of the

subject property which is not reflected on the approved site plan, may require the obtainment of another special exception approval.

1705.4. Variances - The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application to the Zoning Officer, which shall at least include the following:

1. **Filing Requirements** - In addition to the required zoning permit information (see Section 1803), each variance shall include the following:
 - A. Names and addresses of adjoining property owners, including properties directly across a public right-of-way.
 - B. A scaled drawing (site plan) with sufficient detail and accuracy so as to present the nature of the request and the unique site conditions that create hardship to strict compliance with this Ordinance.
 - C. A written description of the requested variance, along with a description of the hardship that is being alleged and all reasons why the variance should be granted.
2. **General Criteria** - The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 - A. 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 this Ordinance in the neighborhood or zone in which the property is located.
 - B. 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 this Ordinance, and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
 - C. That such unnecessary hardship has not been created by the applicant.
 - D. That the variance, if authorized, will not alter the essential character of the zone or neighborhood 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.

- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.
- F. That variances within the Floodplain Zone shall comply with Section 1108 of this Ordinance.
- G. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 18.

1705.5 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 therefore, the issuance of any cease and desist order, or the registration or refusal to register any nonconforming use, structure or lot.

1705.6 Appeals from the determination of the Floodplain Administrator or variances of the provisions contained within the Pequea Township Floodplain Management Ordinance. (Amended by Ordinance #194-2016 adopted April 20, 2016).

1705.7 Appeals from the Zoning Officer's determination under Section 916.2 (and any subsequent amendments) of the Municipalities Planning Code.

Section 1706 Parties Appellant Before the Zoning Hearing Board

Appeals under Sections 1705.5, 1705.6, 1705.7, and proceedings to challenge this Ordinance under Sections 1705.1 and 1705.2 may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under Section 1705.4 and for special exception under Section 1705.3 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

Any appeal of Sections 1705.5, 1705.6 or 1705.7 shall state:

1. The name and address of the appellant and applicant.