

APPLICATION FOR ZONING HEARING
COLUMBIA BOROUGH
LANCASTER COUNTY, PENNSYLVANIA

Date _____

Permit # _____

Request for variance _____

Special Exception _____

Appeal from determination of Zoning Officer _____

Validity Challenge _____

1. Name of property owner _____

2. Address of property owner _____

3. Telephone number of property owner _____

Complete questions #4 -#7 only if applicant is different than property owner.

4. Name of applicant _____

5. Interest of applicant _____

6. Address of applicant _____

7. Telephone number of applicant _____

8. Address of property affected _____

9. Present use of property _____

10. Proposed use of property _____

11. Current Zoning District _____

12. Brief description of proposed work _____

continued

13. Identify all special exceptions being requested, including the specific Sections of the Zoning Ordinance authorizing such special exception . _____

14. Identify all variances from requirements of the Zoning Ordinance being requested, including a reference to the specific Sections of the Zoning Ordinance.

15. Identify all determinations of the Zoning Officer from which an appeal is being made, including the specific reason for the appeal.

16. Include with the application three sketches of the project outlining :
A. Lot lines and dimensions
B. Current building dimensions
C. Proposed new building dimensions

17. The following may be submitted by an applicant in support of the application: signed statements from each adjoining property owner indicating that applicant has informed the person signing the statement of the applicant's proposal and whether the person signing the statement has no objection to the application; photographs of the property at issue; drawings (including dimensions) of proposed signs; and similar information that the Board will be able to fully understand the proposal. _____

continued

APPLICATION FOR ZONING HEARING - page 3

I hereby certify that all of the above statements and the statements contained in any papers or plans submitted in conjunction with my application are true to the best of my knowledge and belief.

Signature

Date

- [1] Planted in conformance with good landscaping practices, with adequate unpaved surface around each for water and air; and
 - [2] Properly protected by curbs, curbstops, distance or other devices from damage from vehicles.
- (4) Landscaping maintenance. All landscaping required by this chapter shall be perpetually maintained by the property-owner. Any landscaping needed to meet an chapter requirement that dies, is removed, or is severely damaged shall be replaced by the current property owner when practical considering growing seasons, within a maximum of 120 days.

§ 220-61. Nonconformities.

(Note: See also Chapter 190, Subdivision and Land Development, if a new lot is created, lot lines are changed or land development approval is needed.)

- A. Proof and registration of nonconformities. It shall be the responsibility of, with the burden of proof upon, a party asserting a nonconformity to provide the evidence that it is lawful. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.
- B. Continuation. A lawful nonconforming use, structure or lot as defined by this chapter may be continued and may be sold and continued by new owners. Any expansion of, construction upon or change in use of a nonconformity shall only occur in conformance with this section.
- C. Expansion of or construction upon nonconformities.
 - (1) Nonconforming structure.
 - (a) The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded provided:
 - [1] That such action will not increase the severity or amount of the nonconformity (such as the area of the building extending into the required yard) or create any new nonconformity; and
 - [2] That any expanded area will comply with the applicable setbacks in that district and other requirements of this chapter.
 - (b) In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements of this section regarding nonconforming uses.
 - (c) Extension along a nonconforming setback. If an existing building has a lawfully nonconforming side or rear building setback, additions may occur to increase the height above such setback or to extend other portions of the building out to the nonconforming side or rear setback line, provided that:

- [1] The structure shall not be extended beyond the existing nonconforming setback line;
 - [2] No additional nonconformity is created;
 - [3] The new nonconforming extension is not greater than 25% of the existing floor area;
 - [4] All other requirements of this chapter shall be met; and
 - [5] Such additions shall not be permitted for a nonresidential building that abuts an existing primarily residential use.
- (2) Nonconforming lots.
- (a) Permitted construction on a nonconforming lot. New permitted structures for a single permitted by right principal use and its customary accessory uses may be constructed, reconstructed or expanded on a nonconforming lot of record as a permitted by right use if minimum setback requirements are met.
 - (b) Lot width. The fact that an existing lawful lot of record does not meet the minimum lot width requirements of this chapter shall not by itself cause such lot to be considered to be a nonconforming lot.
- (3) Expansion of a nonconforming nonresidential use. A nonconforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:
- (a) An expansion of more than 5% in total building floor area shall require special exception approval from the Zoning Hearing Board under Article I.
 - (b) Such reconstruction or expansion shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
 - (c) The total building floor area used by a nonconforming use, or the total land area covered by the nonconforming use, whichever is more restrictive, shall not be increased by greater than 25% beyond what existed in the nonconforming use at the time the use first became nonconforming. The above maximum increase shall be measured in aggregate over the entire life of the nonconformity. All expansions of the nonconforming use and/or building(s) that occurred since the use originally became nonconforming shall count towards the above maximum increase.
 - (d) Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this chapter, unless the Zoning Hearing Board grants a variance.
- (4) Expansion of a nonconforming residential use. An existing nonconforming residential use may be expanded as a permitted by right use provided that: the number of dwelling units or rooming house units are not increased; the expansion

meets all applicable setbacks; no new types of nonconformities are created; and a nonconformity is not made more severe.

- (5) Nonconforming sign. The provisions of this chapter shall not be interpreted to provide a right to expand or extend a nonconforming sign. Instead, any expansions or extensions of a nonconforming sign shall comply with this chapter.
- D. Damaged or destroyed nonconformities. A nonconforming structure that has been destroyed or damaged may be rebuilt in a nonconforming fashion only if: the application for a building permit is submitted within 18 months after the date of damage or destruction; work begins in earnest within 12 months afterwards and continues; and no nonconformity may be created or increased by any reconstruction. The property shall be properly secured during such time in such a way to keep out trespassers and to avoid harm to neighboring properties.
- E. Abandonment of a nonconformity.
- (1) If a nonconforming use of a building or land is discontinued, razed, removed or abandoned for 12 or more months, subsequent use of such building or land shall conform with the regulations of the district in which it is located, except:
 - (a) As provided for in Subsection D, Damaged or destroyed nonconformities, of this section.
 - (b) The applicant shall be responsible to provide evidence that the nonconformity was not abandoned.
 - (c) An existing lawful separate dwelling unit may be unrented for any period of time without being considered abandoned under this chapter.
- F. Changes from one nonconforming use to another.
- (1) Once changed to a conforming use, a structure or land shall not revert to a nonconforming use.
 - (2) A nonconforming use may be changed to a different nonconforming use only if permitted as a special exception by the Zoning Hearing Board. However, special exception approval is not needed for a simple change within an existing building from one lawful nonconforming retail store use to another retail store use or from one lawful nonconforming personal service use to another personal service use provided that the new use complies with any Zoning Hearing Board conditions that applied to the previous use and is not more objectionable in external effects than the previous use.
 - (3) Where special exception approval is required for a change of a nonconforming use, the Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the preexisting nonconforming use with regard to:

- (a) Traffic safety and generation (especially truck traffic);
 - (b) Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, hazardous substances, and explosive hazards;
 - (c) Amount and character of outdoor storage;
 - (d) Hours of operation if the use would be close to dwellings; and
 - (e) Compatibility with the character of the surrounding area.
- (4) A nonconforming use shall not be changed to a nonconforming adult use.
- G. District changes. Any uses, structures or lots that become nonconforming because of a zoning district change shall be regulated under this section on nonconformities.

§ 220-62. Dumpster screening and location.

- A. Any newly placed solid waste dumpster shall be screened on at least three of four sides as necessary to screen views from public streets and dwellings. In addition, some form of mostly solid gate shall enclose the fourth side.
- B. Such screening shall consist of decorative masonry walls, mostly solid weather-resistant wood fencing, fencing of a similar appearance, or primarily evergreen plantings.
- C. Setback from dwellings. To the maximum extent feasible, as determined by the Zoning Officer, a solid waste container with a capacity of over 15 cubic feet shall be kept a minimum of 20 feet from the walls of a dwelling on an abutting lot.
- D. If a solid waste dumpster is moved from one part of a lot to another part of a lot, then it shall come into compliance with this § 220-62.
- E. This section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premises, nor containers for the storage of cardboard or paper for recycling.

- (1) The Zoning Hearing Board shall consist of five residents of the Borough appointed by Borough Council. The existing terms of office shall continue, with terms of office being five years, and with the terms being so fixed that the term of office of one member shall expire each year. Members of the Board shall hold no other office in the Borough.
 - (2) Alternate members. Borough Council may appoint alternate members of the Zoning Hearing Board within the applicable provisions of the State Municipalities Planning Code. [Note: As of the adoption date of this chapter, such provisions were in Section 903(b) of such Act.]
- B. Vacancies. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- C. Organization. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. [As of the adoption date of this chapter, these provisions were in Sections 906(a), (b) and (c) of such Act.]
- D. Zoning Hearing Board jurisdiction and functions. The Zoning Hearing Board shall be responsible for the following:
- (1) Appeal of a decision by the Zoning Officer.
 - (a) The Board shall hear and decide appeals where it is alleged by an affected person, entity or Borough Council that the Zoning Officer has improperly acted under the requirements and procedures of this chapter.
 - (b) See time limitations for appeals in § 220-11F.
 - (2) Challenge to the validity of the chapter or map. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this chapter, these provisions were primarily in Sections 909.1 and 916² of such Act.)
 - (3) Variance.
 - (a) The Board shall hear requests for variances filed with the Borough staff in writing.
 - (b) Standards. The Board may grant a variance only within the limitations of state law. Note: As of the adoption date of this chapter, Section 910.2 of the State Municipalities Planning Code provided that all of the following findings must be made, where relevant:
 - [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 and not the circumstances or conditions generally created by

2. Editor's Note: See now Section 915.1 of the Municipalities Planning Code (53 P.S. § 10915.1).

the provisions of this chapter in the neighborhood or district in which the property is located;

- [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 this chapter and a variance is therefore necessary to enable the reasonable use of the property;
 - [3] Such unnecessary hardship has not been created by the appellant;
 - [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; and
 - [5] 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.
- (c) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
 - (d) The Borough Planning Commission should be provided with an opportunity to provide a review of a variance request.
- (4) Special exception.
 - (a) The Board shall hear and decide requests for all special exceptions filed with the Borough staff in writing. The Board shall only permit a special exception that is authorized by this chapter. See § 220-16.
 - (b) Conditions. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the chapter, as it may deem necessary to implement the purposes and intent of this chapter.
 - (c) The Borough Planning Commission should be provided with an opportunity to review a special exception application.
 - (5) Persons with disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a special exception allowing modifications to specific requirements of this chapter that the applicant proves to the satisfaction of the Zoning Hearing Board are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable state law, as amended, to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.

- (6) The Zoning Hearing Board shall also hear any other matters as set forth in the State Municipalities Planning Code, as amended. (Note: As of the adoption date of this chapter, such provisions were primarily within Section 909.1 of such law.)
- E. Time limits for appeals. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this chapter, these provisions were in Section 914.1 of such Act.)
- F. Stay of proceedings. The stay of proceedings provisions of the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this chapter, such provisions were in Section 915.1 of such Act.)
- G. Time limits on permits and approvals.
- (1) After a variance is approved or other zoning approval is officially authorized, then any applicable zoning and building permits shall be secured by the applicant within 12 months after the date of such approval or authorization. The work authorized by such permits shall then be completed within 12 months after the issuance of the permits.
 - (2) Extension. In response to an applicant stating good cause in writing, the Zoning Officer may extend in writing the time limit for completion of work to a maximum total of 36 months after permits are issued. The Zoning Hearing Board may also establish in writing a time period longer than is provided in Subsection G(1) as part of an approval.
 - (3) If an applicant fails to obtain the necessary permits or begin construction within the above time periods, or allows interruptions in substantial construction of longer than 12 months, the Zoning Officer may conclusively presume that the applicant has waived, withdrawn or abandoned approvals and permits under this chapter and may consider all such approvals and permits to have become null and void.
 - (4) The time limits of this Subsection G shall also apply to permits and approvals received under the Zoning Ordinance of 1967, as amended, unless specifically provided for otherwise by applicable law.

§ 220-12. Board hearings and decisions.

The following requirements shall apply to procedures, hearings and decisions of the Zoning Hearing Board:

- A. Notice of hearings. Notice of all hearings of the Board shall be given as follows:
- (1) Ad. Public notice shall be published, as defined by Section 107 of the State Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered.
 - (2) Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. It is the responsibility of the

applicant to make sure that such notice is posted and remains posted until the hearing.

- (3) **Persons given notice.** The Borough shall provide written notice to the applicant of the time and place of the hearing. The Borough should also provide notice to the President of Borough Council. Any such notices should be mailed or delivered to the last known address.
- B. Initiation of hearings.** A hearing required under this chapter shall be initiated within 60 days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time.
- C. Decision/findings.**
- (1) The Board shall render a written decision on each application within 45 days after the last hearing on that application before the Board, unless the applicant has agreed in writing to an extension of time.
 - (2) Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.
 - (3) References shall be provided to the most pertinent section(s) of this chapter and/or the State Municipalities Planning Code.
- D. Notice of decision.** A copy of the final decision shall be personally delivered or mailed to the applicant or his/her representative or their last known address not later than the time limit established by the State Municipalities Planning Code, as amended. Also, such notice shall be given to any other person or group (including civic or community organizations) who has made a written timely request for such notice. [Note: As of the adoption date of this chapter, such provisions were within Sections 908(9) and 908(10) of such Act, including provisions regarding notice to other parties.]
- E. State law.** See also Section 908 of the Pennsylvania Municipalities Planning Code.

§ 220-13. Appeals to court.

The provisions for appeals to court that are stated in the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this chapter, these provisions were in Sections 1001-A, 1002-A, 1003-A, 1004-A, 1005-A and 1006-A of such Act.)

§ 220-14. Limited public utility exemptions.

See the provisions of the State Municipalities Planning Code, as amended. (Note: As of the adoption date of this chapter, such provisions were within Section 619 of such Act.)

§ 220-15. Limited Borough and municipal authority exemption.

The minimum lot area, minimum lot width and minimum street frontage requirements of this chapter shall not apply to uses or structures owned by Columbia Borough or by a municipal authority created solely by Columbia Borough for such uses and structures.

§ 220-16. Special exception use process.

- A. **Purpose.** The special exception process is designed to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.
- B. **Special exception procedure.**
- (1) See submission provisions in § 220-3.
 - (2) All site plans shall contain the information required in § 220-3D.
 - (3) The Zoning Officer should provide a review to the Board regarding the compliance of the application with this chapter.
 - (4) The Board shall follow the procedures provided in § 220-12.
 - (5) The Borough Planning Commission should be provided with an opportunity to provide a review.
- C. **Consideration of special exception applications.** When special exceptions are provided for in this chapter, the Board shall hear and decide requests for such special exceptions in accordance with stated standards and criteria. The Board may grant approval of a special exception provided that the applicant complies with the following standards for special exceptions and that the proposed special exception shall not be detrimental to the health, safety or welfare of the neighborhood. The burden of proof shall rest with the applicant.
- (1) **Compliance with this chapter.** The applicant shall establish by credible evidence compliance with all conditions on the special exception enumerated in the section which gives the applicant the right to seek the special exception. The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.
 - (2) **Compliance with other laws.** The applicant shall establish by credible evidence compliance with all applicable Borough, state and federal ordinances, statutes and regulations. The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.
 - (3) **Traffic and public services.** The applicant shall establish by credible evidence that the proposed special exception shall be properly serviced by all existing public service systems. The peak traffic generated by the subject of the application shall be accommodated in a safe and efficient manner or improvements made in order to effect the same. Similar responsibilities shall be assumed with respect to other public service systems including but not limited to police protection, fire protection, utilities, parks and recreation.

- (4) Site planning. The applicant shall establish by credible evidence that the proposed special exception shall be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of proper design as specified in this chapter and any other governing law or regulation.
 - (5) Neighborhood. The applicant shall establish by credible evidence that the proposed special exception will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and that the use of property adjacent to the area included in the special exception application will be adequately safeguarded.
 - (6) Historic. The applicant shall establish that the proposed special exception will not substantially damage the historic character of a significant historic area.
- D. Conditions. In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this chapter) as it determines is necessary to implement the purposes of this chapter. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the building permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this chapter.

§ 220-17. Liability.

- A. Any review of activity within the floodplain, site plan review, subdivision or land development approval, erosion control review, wetland delineation review, stormwater runoff review, review of activity on steep slopes, or any other review, approval or permit under this chapter by an officer, employee, board, commission, solicitor, consultant or agency of the Borough shall not constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, boards, solicitor(s), consultants or agencies of the practicality or safety of any structure, use or subdivision, and shall create no liability upon nor a cause of action against such entity or person for any damage that may result pursuant thereto.
- B. If the Zoning Officer mistakenly issues a permit under this chapter, the Borough shall not be liable for any later lawful withdrawal of such permit.

**ARTICLE II
Definitions**

§ 220-18. General interpretation.

For the purposes of this chapter, words and terms used herein shall be interpreted as follows:

- A. Words in the present tense shall include the future tense.
- B. "Used" or "occupied" as applied to any land or building include the words "intended, arranged, or designed to be used or occupied."