NORTH WHITEHALL TOWNSHIP

Planning & Zoning Department
3256 Levans Road
Coplay, PA 18037
Phone: 610-799-3411

Zoning Hearing Board Appeal General Information and Application

Variance:

- A variance, according to the **North Whitehall Township Zoning Ordinance Section 440-30-Definitions,** is "The granting of specific permission by the Zoning Hearing Board to use, construct, expand or alter land or structures in such a way that compliance is not required with a specific requirement of this chapter. Any variance shall only be granted within the limitations of the Pennsylvania Municipalities Planning Code
    - Approval of a variance by the Zoning Hearing board is subject to criteria set forth by the Pennsylvania Municipalities Planning Code. There are five (5) hardship elements that must be proven for the appeal to be granted, they are as follows **(NWT Zoning Ordinance, Section 440-18 – Zoning Hearing Board actions and variances)**:
        - 1- Where 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 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 impar 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

The North Whitehall Township Zoning Hearing Board meets the third (3rd) Wednesday of each month, as needed. Once the submission is accepted, you will be scheduled for the first available hearing.

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Zoning Hearing Board Appeal- Special Exception

Special Exception:

- A Special Exception, according to the **North Whitehall Township Zoning Ordinance Section 440-30-Definitions**, is a "Use for which the Zoning Hearing Board may grant permission following a public hearing and findings of fact consistent with this chapter, provided the use complies with the conditions and standards required by this chapter."
    - Approval of Special Exception uses are subject to the proposal meeting the following: **(NWT Zoning Ordinance, Section 440-26.C-Special exception uses)**
        - 1- Any specific standards for the proposed use listed in **NWT Zoning Ordinance, Sections 440-41 and/or 440-42** of the Zoning Ordinance
        - 2- Other applicable sections of this chapter
        - 3- Comply with all of the following standards
            - Other laws- will not clearly be in conflict with other Township ordinances or state or federal laws or regulations known to the Township.
            - Traffic- The applicant shall show that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion.
            - Safety- The applicant shall show that the use will not create a significant public safe hazard, including fire, toxic or explosive hazards.
            - Stormwater management – See **Subdivision and Land Development Chapter 375 and NWT Ordinance Chapter 363- Stormwater Management** for additional reference/criteria.
            - Neighborhood- Will not significantly, negatively affect the desirable character of an existing residential neighborhood…
            - Site Planning- See **Chapter 375** for additional reference/criteria.
            - Performance Standards- The applicant shall show that the use will not have a serious threat of inability to comply with the performance standards of this chapter.
            - Preservation- The applicant shall prove that demolition of or other negative impacts upon any historic buildings on the site have been reasonably minimized.
    - The Zoning Hearing Board, in granting a special exception, may require such reasonable conditions and safeguards (in addition to those expressed in this chapter) as it determines are 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.

For Special Exception approval, you need to present your request to both the Planning Commission AND the Zoning Hearing Board. The Planning Commission meets on the 4th Tuesday of each month. Once the Planning Commission has reviewed your request, and submitted their comments, you will be scheduled to be heard by the Zoning Hearing Board the following month, on the third (3rd) Wednesday.

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Zoning Hearing Board Appeal Application

Hearing requested:

Special Exception ☐ **Variance** ☐ **Notice of Violation Appeal** ☐ **Interpretation Request** ☐

Property Address: _____

Parcel Number: _____ **Lot Size:** _____

Applicant: Name: _____
Address: _____
Telephone Number: _____
Email Address: _____

Owner: Name: _____
Address: _____
Telephone Number: _____
Email Address: _____

Attorney: Name: _____
Address: _____
Telephone Number: _____
Email Address: _____

To: North Whitehall Township Zoning Hearing Board:

I hereby appeal the determination of the Zoning Officer, denying the proposed construction and or use on the subject property described herewith, and hereby specify the following reasons *(attach additional pages if needed):*

_____

_____

_____

I hereby authorize North Whitehall Township to publish, display and/or project any plans, images or supporting documents submitted as part of this appeal application during public meetings, hearings or on official township platforms for the purpose of review, discussion, and public record. ☐

Signature of Applicant: _____ **Date:** _____

For Office Use Only:

Appeal#_____ Date Submitted: _____

Zoning District: _____ Lot Size: _____

Fee Submitted:_____ Check#: _____

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Zoning Hearing Board 60 Day Waiver

Appeal Number: _____

Property Address:

_____

Parcel ID Number:

_____

Applicant Information:

Name: _____

Address:

_____

_____

Email Address:

_____

Telephone No:

_____

I/we hereby waive the provision of Municipalities Planning Code requiring that appeal cases be heard before the North Whitehall Township Zoning Hearing Board within sixty (60) days of the date of submission.

Signature _____ Date _____

For Office Use Only:

Date Waiver Received: _____

Received by: _____ Date: _____

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Zoning Hearing Board Submission Check List

{To be filled out by the Applicant}

☐ Completed Appeal Application (including signatures) and exhibits (if provided)

☐ Site Plan **(See Zoning Ordinance Section 440-24)** for all required site plan instructions.

☐ Copy of the Property Deed and if the applicant is not the owner, a Signed, Notarized Letter of Authorization from property owner.

☐ Signed and Completed 60-Day Waiver form.

☐ Payment for Appeal (checks payable to North Whitehall Township)

Type of Hearing Requested	**Residential / Commercial**
A. Variance Appeal	$ 1,000.00 / $ 1,500.00
B. Special Exception Appeal	$ 1,000.00 / $ 1,500.00
C. Enforcement Notice Appeal	$ 750.00 / $ 1,000.00
D. Determination and / or Interpretation	$ 750.00 / $ 1,000.00
E. Zoning Officer Preliminary Opinion (s)	$ 300.00
F. Zoning Hearing Board Time Extension & Continuance	$ 400.00 / $ 500.00

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For Variance and Notice of Violation Hearings, provide seven (7) complete sets of submission documents, plus 1 digital copy of the plan.

For Special Exception Hearings, provide twenty-two (22) complete sets of submission documents, plus 1 digital copy of the plan.

For Conditional Use Hearings, provide twenty-two (22) complete sets of submission documents, plus 1 digital copy of the plan.

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Zoning Hearing Board Appeal- Conditional Use Hearings

Conditional Use:

- A use which is allowed or denied by the Board of Supervisors within the provisions of Article 1 of the North Whitehall Township Zoning Ordinance, after review by the Planning Commission. ***(see definition in Zoning Ordinance Section 440-30 "Definitions")***

North Whitehall Township Zoning Ordinance Section 440-25 provides the following regarding the Conditional Use process:

B. Procedure.

1. A conditional use submission shall not be considered officially accepted for review until any needed zoning variance(s) or special exception approval that is directly relevant to the site layout and nature of the use is granted.
2. Submission. A minimum of seven complete paper copies plus one electronic copy, if possible, of any required site plan meeting the requirements of § **440-24** shall be submitted to the Township. The Zoning Officer shall refuse to officially accept an incomplete application which does not provide sufficient information to determine compliance with this chapter and does not provide the appropriate fee as per adopted Township fee schedule.
3. Applicant's distribution. Unless these reviews will be separately addressed under Chapter **375**, Subdivision and Land Development, of this Code, the applicant shall, prior to or within three working days after submittal to the Township, submit one copy of the site plan to any central water and sewer supplier.
4. Township distribution. The Township shall distribute copies of the site plan to the Planning Commission and the Board of Supervisors. A minimum of one copy shall be retained in the Township files. The Township fire services should be given an opportunity for a review, if deemed appropriate by the Zoning Officer.
5. Zoning Officer review. The Zoning Officer shall report in writing or in person to the Planning Commission or Board of Supervisors stating whether the proposal complies with this chapter. The Zoning Officer may request a review by the Township Engineer.
6. Planning Commission. The Planning Commission shall be given an opportunity to review the conditional use application and submit a recommendation to the Board of Supervisors.
7. Timing. The Board of Supervisors shall not act to approve or deny a conditional use application unless:
   (a) The Supervisors have received the reports of the Zoning Officer and the Planning Commission; or
   (b) A period of at least 60 days has passed from the date of the application.
8. Approval. The Board of Supervisors shall approve, conditionally approve or disapprove the conditional use submission. In granting a conditional use, the Board of Supervisors may require such reasonable conditions and safeguards (in addition to those expressed in this chapter) as it determines are necessary to implement the purposes of this chapter.
9. Decision. The decision of the Board of Supervisors shall be in writing within 45 days and shall be delivered to the applicant pursuant to the provisions of the Municipalities Planning Code, as amended.[1]

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C. Approval of conditional uses. The Board of Supervisors shall approve any proposed conditional use if it finds adequate evidence that the proposed use will comply with all of the following:

1. Any specific standards for the proposed use listed in § **440-41** or **440-42**;
2. Other applicable sections of this chapter
3. Chapter **375**, Subdivision and Land Development, of this Code, as applicable, except that engineering details regarding compliance with such chapter may be addressed as part of a subsequent approval under such chapter; and
4. All of the standards listed in § **440-26.C.(3)**.

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Appeal of a decision by the Zoning Officer

North Whitehall Township Zoning Ordinance Section 440-18.E.1 "Zoning Hearing Board actions and variances"

1. Appeal of a decision by the Zoning Officer

(a) The Board shall hear and decide appeals where it is alleged by the appellant (a person affected or any agency of the Township) that the Zoning Officer has failed to follow prescribed procedures, or has misinterpreted or misapplied any valid provision of this chapter.

(b) See time limitations for appeals in § **440-18F**.

Section 914.1.b of the Pennsylvania Municipalities Code "Time Limitations" provides a 30 day appeal period from the date the determination is issued"

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