

**RULES OF PROCEDURE
UPPER DUBLIN TOWNSHIP ZONING HEARING BOARD**

The following Rules of Procedure are established by the Upper Dublin Township Zoning Hearing Board ("Board") to govern its organization and to provide a guide for those parties appearing before the Board. These Rules of Procedure are subject to the provisions of the Pennsylvania Municipalities Planning Code ("MPC"), as amended, the Upper Dublin Township Code, as amended, and applicable decisions of the Pennsylvania Courts. Any area not covered by these Rules and any ambiguity or conflict between these Rules and such Codes or decisions shall be controlled by first referring to the MPC, then to the Upper Dublin Township Code and if still not resolved, then to the applicable decisions of Pennsylvania Courts.

1.0 Zoning Application

1.1 Request for Hearing. The Applicant shall be considered to have requested a hearing by the Board when a complete application, including the fees, has been received and accepted by the Zoning Officer. A complete application shall include:

1.1.1 The name, address, contact phone number(s) and email address of the applicant and the applicant's attorney, if applicable.

1.1.2 The name, address, contact phone number(s) and e-mail address of the owner of the real estate to be affected by the appeal or the proposed special exception or the variance.

1.1.3 A copy of the deed, agreement of sale, lease agreement etc.

1.1.4 A brief description and location of the real estate affected by the application or appeal.

1.1.5 A statement of the present zoning classification of the real estate in question, the improvements thereon and the present use thereof.

1.1.6 A statement of the grounds for an appeal, application or challenge and the section of the Upper Dublin Code from or under which a variance, or special exception is requested, and reasons why relief should be granted. The Board may decline to consider any ground or reason for relief which is not stated in the notice of appeal or application.

1.1.7 A reasonably accurate description of the present improvements and the additions intended to be made under the appeal or application, indicating the size and nature of any proposed improvements.

1.1.8 The number of witnesses who will give testimony and an indication of the time necessary to present the applicant's case.

1.1.9 In the alternative, an applicant may submit a completed, approved Upper Dublin Zoning Hearing Application form available from the zoning officer, along with a copy of the deed, agreement of sale, lease agreement or other such document.

1.2 **Plan of Property.** The application shall be accompanied by eight (8) copies of a plot plan of the property, whose contents are reviewed and approved by the zoning officer at or about the time of application. Plans submitted shall indicate the location and size of the lot and the size of improvements now erected and proposed to be erected thereon and information sufficient enough to allow the zoning officer and the Board to comprehend the zoning relief requested. At least one set of plans shall be no larger than 11 inches by 17 inches. Plans shall clearly delineate existing setbacks, setback lines as required under the Upper Dublin Township Code, and setbacks as proposed.

1.3 **Authentication of Interest in Property.** At or prior to the hearing, the applicant must establish to the satisfaction of the Zoning Officer and/or the Board that the applicant has such an interest in the property as would enable the applicant, except for the provisions of the Zoning Code, to make the use of the property requested by the applicant.

2.0 **Hearing**

2.1 **Applicant(s).** A corporation, including a limited liability company or a professional corporation, must be represented by a licensed attorney who is in good standing with the Supreme Court of Pennsylvania. In the case of individuals or entities other than a corporation, such an applicant if not represented by a licensed attorney, shall not be permitted to cross-examine witnesses nor make legal argument nor shall their witnesses be able to offer legal argument.

2.2 **Expert Reports.** Hearings in cases involving expert evidence are impeded if opposing parties first receive expert reports during the hearing at which the evidence is offered. Any party wishing to present expert evidence at a hearing shall submit a copy of any report prepared by an expert to the Board's Solicitor and the Zoning Officer at least 48 hours prior to the hearing. In addition, if the identity of counsel of any other party is known, a copy of the report shall be sent to such counsel so that it is received at least 48 hours prior to the hearing. The Board, in its discretion, may exclude any evidence offered without compliance with this Rule.

2.3 **Hearing Officer.** In the absence of a quorum at a public hearing, the Chair, the Vice Chair or the Senior Member of the Board present, in such order, is hereby appointed as Hearing Officer. The Hearing Officer shall hear the case and make a recommendation to the Board and at least a quorum of the Board shall render a decision.

2.4 **Continued Hearings.** If the original hearing date has been published, the date and time of any continued hearing or meeting ("proceedings") shall be announced on the record by the Board during the originally-scheduled hearing or, if applicable, the call of the agenda at the originally-published date and time. The place of all proceedings of the Zoning Hearing Board shall be presumed to be the Upper Dublin Township Building unless otherwise announced or published by the Zoning Hearing Board. Said public announcement(s) at a hearing shall constitute sufficient notice of the continued proceedings and no further publication or posting shall be required.

Where notice of a continued hearing or continued meeting is not given in accordance with the preceding paragraph, written notice of any continued proceedings shall be given to counsel of record and the persons who have entered their appearances in the matter, or who have requested in writing that they received notices of the proceedings involved. The Board may waive any requirement under this Rule if the notice actually given meets any applicable and mandatory requirements of law and is sufficient to give reasonable notice of the proceedings.

2.5. Recording of Board Proceedings. Video image and sound recording devices may be operated by the general public at proceedings of the Board subject to the following conditions:

1. all such devices must be operated behind the last row of the proceedings room in which attendees are seated;
2. all such devices must not hinder the public's viewing of the meeting or movement around the meeting room, must not disrupt the proceedings or interfere with the public's hearing of the proceedings and must not compromise the safety of persons in attendance;
3. no lighting or flash equipment may be used;
4. operators of such devices may not move around the meeting room while recording, and devices may not be plugged into any electrical outlet in the meeting room or elsewhere in the building without permission of the Board chair;
5. operators may not request a pause in the proceedings due to a video, image or sound recording; and
6. at the Board's chair's direction, all such devices must be turned off at any time the official record is paused, the Board meets in executive session, or, at the discretion of the Board chair, the device or its operator creates a disturbance or disruption at the hearing. Failure to comply could result in erasure of the recorded data, and removal from the meeting site.

2.6. Broadcast of Board Proceedings. The Board reserves the exclusive right to determine if Board proceedings shall be broadcast or live streamed.

2.7 Prehearing Memoranda. In all cases involving a challenge to the validity of any provision of any ordinance, the person asserting the challenge shall file with the Solicitor of the Board and the Zoning Officer at least five days prior to the hearing a memorandum listing:

1. The witnesses who will be called, describing the substance of their testimony; and
2. The legal authorities which support the challenge.

3.0. Communications.

3.1. **Prohibited Communications - Contacting the Board.** No party, nor the party's representative, shall contact any member of the Zoning Hearing Board regarding any matter pending before the Board.

3.2. **Communications - Internet.** It is well recognized under Pennsylvania law that a zoning hearing board serves a quasi-judicial function over matters that come before it and are within its jurisdiction under the MPC. As such, all members of the Zoning Hearing Board must exercise caution when engaging in any type of electronic communication, including communication by text or email, or when participating in online social networking sites or otherwise posting material on the Internet, given the accessibility, widespread transmission, and permanence of electronic communications and material posted on the Internet. Therefore, the Zoning Hearing Board hereby adopts and expects all members to comport themselves with the following canons of the Pennsylvania Code of Judicial Conduct:

- A. Rule 1.2 (relating to acting in a manner that promotes public confidence in the independence, integrity and impartiality of the Zoning Hearing Board and avoiding impropriety and the appearance of impropriety);
- B. Rules 2.6 and 2.9 (relating to giving all legally interested parties to a proceeding the right to be heard according to law and to avoid *ex parte* communications concerning a pending proceeding);
- C. Rule 2.10 (relating to abstention from public comment about a pending proceeding, excluding public statements in the course of their official duties or from explaining for public information the procedures of the Zoning Hearing Board); and
- D. Rule 3.1 (relating to a prohibition of social and recreational activities that will interfere with the performance of their Zoning Hearing Board duties or would reasonably appear to undermine the member's independence, integrity or impartiality).

4.0 **Compliance**

4.1 **Ethics Act.** Members of the Zoning Hearing Board are subject to the Pennsylvania Public Official and Employee Ethics Act.

5.0. **Repealer.** All Rules of Procedure of the Zoning Hearing Board existing prior to the below effective date are hereby repealed.

The foregoing Rules of Procedure were adopted by the Upper Dublin Township Zoning Hearing Board at its public meeting on May 27, 2020 and became effective May 27, 2020.

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