

ARTICLE VIII – ZONING HEARING BOARD

§ 800. Purpose.

§ 800.1 The purpose of this Article is to set forth the regulations regarding the Zoning Hearing Board and all duties and functions that pertain thereto.

§ 801. Membership.

§ 801.1 The City of Monongahela shall maintain a Zoning Hearing Board. The Zoning Hearing Board shall consist of three members each appointed by resolution by the City of Monongahela Council. In addition to the three (3) member appointments, the Zoning Hearing Board shall consist of one (1) alternate member appointed by resolution by City Council.

§ 801.2 The members of any present Zoning Hearing Board shall continue to serve until the expiration of their appointed terms. City Council shall appoint successors on the expiration of their respective terms to serve three (3) years and shall fill any vacancy for the unexpired term of any member or alternate whose office becomes vacant. The alternate member shall be appointed for a three (3) year term. Members and the alternate may succeed themselves.

§ 801.3 The members and alternate of the Zoning Hearing Board shall be removable for cause by the City Council upon written charges and after a public hearing.

§ 801.4 Members of the Board and the alternate shall hold no other office in their respective municipality, and no member of the Board or alternate may also be a member of the Planning Commission.

§ 801.5 The word “Board,” when used in this Article shall mean the Zoning Hearing Board of the City of Monongahela.

§ 802. Powers and Duties.

§ 802.1 The Board shall have the following powers:

(A) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter. To interpret upon the words, terms, rules, regulations, provisions and restrictions of this Chapter where there is doubt as to the meaning thereof, including determination in specific instances whether questionable uses are permitted by virtue of being similar to or customarily incidental to permitted uses as provided by this Chapter.

- (B) To hear and decide special exceptions to the terms of this Chapter in such cases as are herein expressly provided for, in harmony with the general purposes and intent of this Chapter with power to impose appropriate conditions and safeguards.
- (C) To authorize upon appeal, in special cases, such variance from the terms of this Chapter as the Board shall feel will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of this Chapter shall be observed and justice done. The special circumstances requiring a variance shall be fully set forth in the minutes of the Board, which will show the votes of each member upon each question.
- (D) To hear and decide substantive challenges to the validity of any land use ordinance, except those brought before the City Council as curative amendments.
- (E) To hear and decide procedural challenges to the validity of any land use ordinance. Procedural challenges include procedural questions or alleged defects in the process or adoption of a land use ordinance. Such challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.

§ 803. Standards for Board Consideration.

§ 803.1 In any instance where the Board is required to consider an exception or variance to this Chapter in accordance with the provisions of the Ordinance, the Board shall, among other things:

- (A) Consider the suitability of the property for the use desired. Assure itself that the proposed change is consistent with the spirit, purpose and intent of this Chapter.
- (B) Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
- (C) Determine that the proposed change will serve the best interests of the City, the convenience of the community (where applicable) and the public welfare.
- (D) Consider the effect of the proposed change upon the logical, efficient, and economical extension of public service and facilities,

such as public water, sewers, police and fire protection and public schools.

- (E) Consider the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon highway traffic, and assure adequate access arrangements in order to protect major streets from undue congestion and hazard.
- (F) Be guided in its study, review, and recommendation by sound standards of subdivision practice where applicable.
- (G) Impose such conditions, in addition to those required, as are necessary to assure that the intent of this Chapter is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive or hazardous elements and adequate standards of parking and sanitation.
- (H) Determine that there are special circumstances or conditions fully described in the findings applying to the land or buildings for which the variance is sought, which circumstances or conditions are such that the application of the provisions of this Chapter would deprive the applicant of the reasonable use of such land or building.
- (I) Determine that the unique circumstances for which the variance is sought were created neither by the owner of the property or due to or the result of general conditions in the district in which the property is located.

§ 804. Exercise of Powers.

§ 804.1 In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and may make such additional order, requirement, decision, or determination as ought to be made, and, to that end, shall have all the powers of the officer from whom the appeal is taken.

§ 805. Rules of Procedure.

§ 805.1 The Board shall adopt rules of procedure in accordance with the several provisions of this Chapter as to the manner of filing appeals or applications for special exceptions or for variance from the terms of this Chapter. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Chapter involved and shall

exactly set forth the interpretation that is claimed, the use for which the special exception is sought, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

§ 806. Meetings.

§ 806.1 Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

§ 806.2 When, by reason of absence or disqualification, one or more members is unavailable for a hearing, the Chairman or, in his absence, the Acting Chairman, shall designate the alternate member of the Board to sit on the Board. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternative was initially appointed until the Board has made a final determination of the matter or case.

§ 807. Notice of Hearing.

§ 807.1 Upon the filing with the Board of an application for a special exception, variance, appeal from any decision or action of the Zoning Officer, appeal from an interpretation of the terms of this Ordinance or substantive or procedural challenges to the validity of this Ordinance, the Board shall fix a reasonable time and place for a public hearing thereon and shall give notice as follows:

(A) By publishing a notice thereof once a week for two successive weeks before the date fixed for the hearing in a newspaper of general circulation in the City; the first publication shall not be more than thirty (30) days and the second publication shall not be less than seven days from the date of the hearing.

(B) By mailing or serving due notice to the parties in interest.

(C) By mailing or serving notice thereof to the City.

(D) When the Board shall so order, by mailing or serving notice thereof to the owner or owners, if their residence is known, or to the

occupier or occupiers of every lot on the same street within three hundred (300) feet of the lot or building in question and of every lot not on the same street within one hundred and fifty (150) feet of the said lot or building, provided that failure to give notice specified herein shall not invalidate any action taken by the Board.

(E) By mailing a notice thereof to any resident or association of residents of the City or other interested parties who shall have formally registered their names and address for this purpose with the Board subsequent to the enactment of this Ordinance.

(F) By conspicuously posting written notice of the hearing on the affected tract of land at least one week prior to the hearing.

§ 807.2 The notices herein required shall state the location of the building or lot and the general nature of the question involved.

§ 808. Expiration of Special Exceptions and Variances.

§ 808.1 A special exception or variance shall expire if the applicant fails to obtain a permit within one year of the date of authorization thereof and shall thereafter be subject to expiration in accordance with Article VII of this Chapter.

§ 809. Appeal to Court.

§ 809.1 Any persons aggrieved by the decision of the Board may within thirty (30) days thereafter appeal to the Court of Common Pleas of Washington County by petition duly verified, setting forth the grounds upon which said appeal is taken.

§ 810. Fees.

§ 810.1 Application before the Zoning Hearing Board shall be accompanied by a cash payment to the City Zoning Officer in accordance with a fee schedule adopted by resolution of the City Council following the enactment of this Ordinance or as such schedule may be amended from time to time. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing the decision of the Board if such appeal is made and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.