



HOPEWELL TOWNSHIP, CUMBERLAND COUNTY

415 Three Square Hollow Road, Newburg, PA 17240-9333

NOTICE AND INSTRUCTIONS FOR PARTY STATUS REQUEST FOR BOARD OF SUPERVISORS AND ZONING HEARING BOARD PUBLIC HEARINGS

Please be sure to fill out the form completely and legibly. You may attach an additional sheet to answer the questions on this form.

Please also read the following regarding party status and evidentiary requirements in hearings. For those not familiar with the applicable laws, you may find it useful to review the document linked at the end of this excerpt.

Parties and Standing

Section 908(3) of the MPC specifies that, in addition to the applicant "parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person (including civic or community organizations) permitted to appear" by the zoning hearing board or governing body. The zoning hearing board and governing body are authorized to require that all persons who wish to be considered as parties enter an appearance in writing on a form provided by the zoning hearing board or governing body for that purpose. However, the form functions simply as a means to indicate to the zoning hearing board or governing body one's interest in being considered as a party; it does not guarantee party status.

The zoning hearing board and governing body decide who may participate in the hearing before it as a party, subject to the provisions of Section 908(3) of the MPC, and formally acknowledge such parties for the record. Standing to participate as a party may be challenged by the applicant. Such challenges should be raised at the time the person is seeking party standing.

Where the MPC permits standing to any person "affected" by the application, this provision requires the zoning hearing board or governing body to consider if a person claiming party status is "affected" by the matter before it. The courts have determined that a claim based purely on taxpayer status is not sufficient to establish standing as a "person affected by the application." By contrast, a person whose property, residence, or business abuts the property that is the subject of the appeal is affected and has standing. However, as the distance between the property of the individual seeking affected party status and the property that is the subject of the proceeding increases, standing becomes less certain.

Standing to participate as an affected person is not foreclosed merely because the affected person's property is located in another municipality.

Party Rights

A party has the right to be represented by counsel. A party must be given the opportunity to respond, present evidence (through oral testimony of witnesses and exhibits), and cross-examine adverse witnesses on all relevant issues.

Evidence

All testimony must be received under oath or affirmation.

Unsworn statements offered during the course of the hearing or upon the close of the record

of the hearing do not constitute legal evidence of record. The zoning hearing board or governing body may not consider unsworn statements when making its findings and decision. Unsworn statements also are not part of the record in the event of an appeal taken from the decision.

Formal rules of evidence do not apply in hearings conducted on applications for variance, special exception, or conditional use. Section 908(6) of the MPC authorizes the zoning hearing board or governing body to exclude any such irrelevant, immaterial, or unduly repetitious evidence that may be heard during the course of the public hearing. Hearsay evidence – such as testimony about something the witness states was reported to him or her by another who first-hand heard or saw it – if not objected to, may be given its natural probative value.

Section 908(8) of the MPC limits communications and the receipt of information outside the context of the hearing once an application has been submitted. The MPC prohibits direct or indirect communications with any party in connection with any issue involved in the application except upon notice and opportunity for all parties to participate. Likewise, the MPC prohibits taking notice of any communication, report, or staff memoranda (excluding solicitor advice) unless all parties are afforded an opportunity to contest the material. Finally, the MPC prohibits inspection of the property that is the subject of the application with any party unless all parties are given an opportunity to participate in the inspection.

The zoning hearing board or governing body is charged with the duty to make such findings of fact as are necessary to make its decision on an appeal or application. The zoning hearing board and governing body also are cloaked with the authority to make determinations as to the weight to be given to the evidence and to the credibility of a witness, testimony, or exhibit. As fact finder, the [board] has the power to reject even uncontradicted testimony if the board finds that testimony to be lacking in credibility.

Excerpted from the PA Dept. of Community & Economic Development “SPECIAL EXCEPTIONS, CONDITIONAL USES AND VARIANCES: PLANNING SERIES #7,” 9th Ed. (August 2014), which may be accessed here:

<https://dced.pa.gov/download/planning-series-07-special-exceptions-conditional-uses-variances/>.

**PARTY STATUS REQUEST FORM FOR
BOARD OF SUPERVISORS AND
ZONING HEARING BOARD PUBLIC HEARINGS**

Name _____ Phone _____

Physical Address

City _____ State _____ Zip _____

Organization (if applicable) _____

E-mail _____

Name of application for which party status is requested.

Describe the location of your relevant property in relation to the property that is the subject of the hearing.

Describe the impact you believe the application will have on your land or lands.
