

Upper Makefield *Township*

1076 Eagle Road | Newtown, PA 18940 | p 215.968.3340 | f 215.968.9228 | www.uppermakefield.org

UPPER MAKEFIELD TOWNSHIP ZONING HEARING BOARD APPLICATION

Submittal Requirements: Eighteen (18) complete packets including this application, filing fee, plans, supporting documents *and* photographs and a copy of the plans and photographs on a cd disc or flash drive in jpg. format.

Plans must be folded to a maximum of 8" x 13."

Date of Application _____

1. Appellant/Applicant _____ Email _____
NAME

ADDRESS

PHONE

Owner _____ Email _____
NAME

ADDRESS

PHONE

Attorney/Agent _____ Email _____
NAME

ADDRESS

PHONE

2. If applicant is not the owner, state applicant's authority to title interest to bring this Application (equitable owner, agent, lessee, etc.) _____

3. The undersigned hereby: (check applicable item or items)

- (a) _____ appeals from the action of the Code Enforcement Officer
- (b) _____ requests a special exception
- (c) _____ requests a variance
- (d) _____ challenges the validity of the zoning ordinance or map

4. Address of premises _____

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Zoning Hearing Board fees cover the cost of the court stenographer, secretarial expense and administration expense incurred by Upper Makefield Township. All applicants are refunded any money remaining after payment of the above mentioned expenses and are required to compensate Upper Makefield Township for any of the above should the expenses exceed the initial application fee.

Tax Map Parcel No. 47- _____ Date of Present Deed _____

Present Zoning Classification _____

Present Use _____ Lot Size _____

Nature of Improvements:

(a) Present _____

(b) Proposed _____

5. Use in case of an appeal from the action of the code enforcement officer:

(a) The action taken was _____

(b) The date of the action was _____

(c) The foregoing action was in error because _____

6. Use for request for special exception:

(a) Nature of special exception sought is _____

(b) The special exception is allowed under Article _____ Section _____

Subsection _____ of the Newtown Area Joint Municipal Zoning Ordinance.

(c) If more than one (1) special exception is requested, list all ordinance references and the nature of the exceptions sought: _____

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7. Use for request for variance:

(a) The nature of variance sought is _____

(b) The variance is from Article _____ Section _____

Subsection _____ of the Newtown Area Joint Municipal Zoning Ordinance.

(c) If more than one (1) variance is requested, list all ordinance references and the nature of the variances sought _____

(d) The nature of the unique circumstances and the unnecessary hardship justifying this request for a variance is _____

8. Use in case of a challenge to the validity of a zoning ordinance or map:

(a) The ordinance or map challenged is as follows _____

(b) The challenge is ripe for decision because _____

(c) The ordinance challenged is invalid because _____

9. Has there been any previous zoning appeal, variance or special exception for this property?

Yes _____ No _____

If yes, please indicate the date thereof and nature of zoning granted: _____

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It is acknowledged and agreed by the applicant that the Township, its employees, officials, representatives, consultants and/or agents **may enter the property** at any reasonable hour with prior notification to the Applicant, Owner or Inhabitants for purposes of inspection, verification, review or data acquisition as part of the hearing process of the submitted application(s).

OWNER OR OWNER'S AGENT SIGNATURE

PRINTED NAME

APPLICANT SIGNATURE

PRINTED NAME

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the facts are true and correct.

Applicant

SWORN TO AND SUBSCRIBED

before me this _____ day of

_____, 20__.

Notary Public

DATE RECEIVED _____

FEE PAID \$ _____

Director of Planning & Zoning

ARTICLE XV**JOINT ZONING HEARING BOARDS****§1500. Establishment of the Local Zoning Hearing Boards; Effective Date.**

A. Local Zoning Hearing Boards (hereinafter designated 'LZHB') for each municipality are hereby established in order that the objectives of this Ordinance and the Pennsylvania Municipalities Planning Code may be fully and equitably achieved and that a means for competent interpretation of this Ordinance may be provided.

B. *Effective Date.* The Joint Zoning Hearing Board shall continue in existence and operate in accordance with previously established rules and regulations for as long as is required to hear and act upon all applications filed on or before January 2, 1990. All applications filed on or after January 3, 1990 shall be heard and acted upon by the individual LZHB for the municipality in which the application is based.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1501. Membership.

The membership of each LZHB shall, upon the determination of the governing body consist of three (3) or five (5) residents of the municipality appointed by resolution of the governing body.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1502. Terms of Office; Alternates.

A. The terms of office of a three (3) member LZHB shall be three (3) years, and shall be so fixed that the term of office of one (1) member shall expire each year. The terms of office of a five (5) member LZHB shall be for a period of five (5) years and shall be so fixed that the term of one (1) member of a five (5) member LZHB shall expire each year. If a three (3) member LZHB is changed to a five (5) member LZHB, the members of the existing three (3) member LZHB shall continue in office until their terms of office would expire under prior law. The governing body shall appoint two (2) additional members to the LZHB with terms scheduled to expire in accordance with the provisions of this Section. The LZHB shall promptly notify the governing body of any vacancies which occur. Appointments to fill the vacancies shall be only for the unexpired portion of the term. Members of the LZHB shall hold no other office in the municipality.

B. The governing body may appoint, by resolution, at least one (1) but no more than three (3) residents of the municipality to serve as alternate members of the LZHB. The term of office of an alternate member shall be three (3) years. When seated, an alternate shall be entitled to participate in all proceedings and discussions of the LZHB to the same and full extent as provided by law for LZHB members, including specifically, the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in the Pennsylvania Municipalities Planning Code and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and zoning officer. Any alternate may participate in any proceeding or discussion of the LZHB, but shall not be entitled to vote as a member of the LZHB nor be compensated, unless

designated as a voting alternate member.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1503. Removal of Members.

Any member of the LZHB may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1504. Organization of the LZHB.

Each LZHB shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the LZHB, but the LZHB may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the LZHB as provided in §1506. The LZHB may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The LZHB shall keep public records of its business. At the request of the governing body of each municipality, the respective LZHB shall submit a report of its activities to the governing body.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1505. Expenditures for Services - Fees.

A. Each LZHB may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services, within the limits of the funds appropriated by each municipality. Members of each LZHB may receive compensation for the performance of their duties, as may be fixed by each municipality.

B. The applicant before a LZHB shall deposit with the LZHB such fee as shall be established by Resolution of the governing body of the respective municipality. Each governing body may prescribe reasonable fees with respect to hearings before the LZHB.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1506. Hearings.

A. Each LZHB shall fix a reasonable time and place for a public hearing and shall give notice thereof as follows:

1. By publishing a notice thereof once at least ten (10) days before the date fixed for the hearing in a newspaper of general circulation within the participating municipalities;
2. By mailing a notice thereof to the parties in interest;
3. By mailing a notice thereof to each affected municipality's zoning officer, the municipal secretary or manager, the affected local planning commission, the Secretary/Treasurer of the Joint Zoning Council, and the Joint Planning

Commission;

4. By mailing or delivering a notice thereof to the owner, if his residence is known, or to the occupant of every lot within 500 feet of the lot or building; except that, if a portion of a PRD or condominium shall fall within a five hundred (500) foot radius, notification to the homeowners' association or condominium council will suffice, provided that failure to give notice as required by this Section shall not invalidate any action taken by the LZHB.

5. The notice herein required shall state the location of the lot or building and the general nature of the question involved. In addition, notice shall be conspicuously posted on the affected tract of land.

B. The hearings shall be conducted by the LZHB, or the LZHB may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the LZHB, but the parties may waive the decision or finding by the LZHB and accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the affected municipality, any of the participating municipalities, any person who is affected by the application who has made timely appearance of record before the LZHB, and any other person including civic or community organizations permitted to appear by the LZHB. The LZHB shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the LZHB for that purpose.

D. The chairman or acting chairman of the LZHB or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and documents requested by the parties.

E. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

F. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

G. The LZHB or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

H. The LZHB or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take any notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

I. The LZHB or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the LZHB or hearing officer. A decision by the LZHB shall require the majority vote of the LZHB members for affirmative action. A tie vote or a vote of less than a majority of the LZHB members will be deemed a denial of an application. The LZHB shall render and communicate its decision in accordance with the provisions of the Pennsylvania Municipalities Planning

Code.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1507. LZHB Functions.

A. Challenge to the validity of the Zoning Ordinance or map shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

B. Unified appeals shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

C. Appeals from the municipal zoning officer shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

D. Variances shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

E. Special Exceptions. Where this Ordinance has stated special exceptions to be granted or denied by the LZHB pursuant to express standards and criteria, the LZHB shall hear and decide requests for such special exceptions, in respect to property owned by the appellant in accordance with such standards and criteria. In granting a special exception, the LZHB may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purpose of this Ordinance. The following requirements apply:

1. Application shall be made in writing indicating the section of this Ordinance under which an exception is sought. A reasonably exact, dimensional sketch shall be furnished showing the placement and use of the proposed buildings; details of parking, loading, and lighting; sidewalks and other pedestrian areas.

2. Further, a description of the uses proposed shall be included in sufficient detail that the objectionable side effects, if any, can be determined.

3. In granting special exceptions, the LZHB shall, in addition to such other factors as it may deem relevant:

- a. Give full consideration to the size, scope, extent, and character of the exception desired and assure itself that such request is consistent with the plan for future land use in the municipality and with the spirit, purpose and intent of the Joint Municipal Zoning Ordinance.

- b. Consider the suitability of the property for the use desired and the extent to which the new or expanded use is susceptible of regulation or restriction by appropriate conditions and safeguards.

- c. Consider the public interest in or the need for the proposed use or change, and determine that the proposal will serve the best interests of the municipality, the convenience of the community, and the public health, safety, morals, and general welfare, but shall not constitute a change of use to one not specifically permitted by exception in that district.

- d. Consider, where pertinent, the effects of the proposed change with respect to congestion on the roads or highways, the most appropriate use of land, conserving the value of buildings, safety from fire, panic and other dangers, adequacy of light and air, the prevention of overcrowding the land, congestion of population, and the adequacy of public and community services.

e. Make certain that the proposed change is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police and fire protection, transportation, and public schools.

f. Take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed change or modification, as permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.

4. The burden will be upon the applicant to show:

a. The ability and capacity of the existing public water system to provide the needs of the proposed use without system extensions beyond those which the applicant will provide;

b. The ability and capacity of public sanitary sewers to dispose of the wastes from the proposed use without system extensions beyond those which the applicant will provide;

c. The ability and capacity of drainage facilities to adequately dispose of surface runoff of the proposed use without system extensions beyond those which the applicant would provide;

d. The ability and capacity of existing street systems to provide for the needs of the proposed use without substantially altering existing traffic patterns or overloading the existing street system and the availability of other public facilities such as parks and playgrounds to meet the additional demands for public services without extensions beyond those to be provided by the applicant;

e. Proof that the proposed use accomplishes an orderly and contiguous extension of existing development (leapfrog development is deemed to be wasteful of land and natural resources);

f. The extent to which the proposed use, if residential, would meet existing goals of the municipality for low and moderate income dwelling units;

g. A requirement that the application set forth environmentally significant qualities of the site or surrounding areas and the extent to which those qualities may be affected by the application;

h. To the extent that the application will utilize existing buildings or structures, the extent to which existing structures will be modified and the extent to which they will be preserved if they are of historic or architectural significance.

5. After a special exception is granted, every applicant must follow regular submission procedures to the municipal zoning officer or, in the case of subdivisions and commercial or industrial developments, to the municipal planning commission and the governing body for approval of all aspects of the plan not specifically covered by the special exception.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1508. Parties Appellant before the LZHB.

Appeals shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1509. Time Limitations: Persons Aggrieved.

The time limitations shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1510. Stay of Proceedings.

Stay of Proceedings shall be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1511. Appeal from Decision of the LZHB.

As provided in Article XVI of this Ordinance.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)

§1512. Modifications.

This Article shall be deemed modified by any later changes in the Pennsylvania Municipalities Planning Code, Act 247, applicable to the three municipalities within this Ordinance: Newtown Township, Upper Makefield Township, and Wrightstown Township.

(as readopted effective June 28, 2007, by Ordinance adopted June 23, 2007)