

Thinking About Home Improvements?

Your home has a gorgeous deck and you want to add a roof and walls to create a three-season room. There is space to do the project, but it turns out that you are required to apply for a variance based on your property's zoning.



What Is a Variance?

Zoning determines what can and cannot be done on properties. Upper Makefield belongs to a jointure with Newtown Township and Wrightstown Township, and together they have adopted a Joint Municipal Zoning Ordinance (JMZO). The JMZO regulates zoning in the three municipalities. Determining your property's zoning district will help you know what is permitted on the site. If your project would require a departure from a permitted use, then a variance is required. As the property owner, you must demonstrate an unnecessary hardship due to unique characteristics of the property which prevent conformity and that an approved variance would not cause a detrimental effect to the public welfare, as well as additional standards. Variance requests are submitted to the Zoning Hearing Board.

The Zoning Hearing Board

The Zoning Hearing Board (ZHB) is a quasi-judicial body that hears requests for variances, special exceptions, appeals to determinations by the zoning officer and challenges to the land use ordinance. It is comprised of five members with up to three alternates and functions similarly to a court with its own legal requirements. A court stenographer documents the official record.

Though its members are appointed by the Board of Supervisors, the ZHB operates independently and has its own solicitor. However, the Code does allow the Township representation in a ZHB proceeding as "an interested party." Therefore, variance requests are carefully reviewed by the Board of Supervisors, particularly when the request is for relief from impervious surface limitations which could exacerbate flooding.

Contact Township Staff Early

Zoning Hearing Board requests are time consuming and costly, and they can delay your project. That's why homeowners are urged to plan projects that meet ordinances when possible. Contact the Planning and Zoning Department early in the planning process: They may be able to help you design within the Code or offer suggestions to limit the relief requested.

[Parcel Map](#)

[Joint Municipal Zoning Ordinance \(JMZO\)](#)

Variance Application Process

If you think your project has merit and decide to submit a Zoning Hearing Board application for a variance, here's a description of the process.

- **Prepare application materials.** Check online and contact the Planning and Zoning office for requirements. They can include detailed drawings, a current property survey, and photos. You may choose to hire professionals to prepare the necessary documentation since your presentation is aimed toward proving a legally defined hardship which justifies relief.
- **Submit a complete application.** The application becomes an official record for any appeals, so professionals like a land use attorney and an architect are often engaged. They are well versed in the requirements and formats requested and will save time and money in the long run if an application is determined to be incomplete after review. Eighteen packets, including plans and copies of the complete application, must be submitted.
- **Notices required.** In advance of the hearing, the ZHB Solicitor will advertise a Legal Notice. Township staff will provide notification to neighbors and will post a notice on the property.
- **Prepare for the Zoning Hearing Board meeting.** A land use attorney will guide you through this process. If you don't use one, consider a consult. Talk to neighbors informally to hear and address any potential concerns in advance. Familiarize yourself with the specifics of your proposal and your property (i.e. setbacks and square footage).
- **Review by Board of Supervisors.** Prior to the ZHB hearing, the Board of Supervisors reviews all applications. As elected officials and the governing body, they consider the effect of the potential project on residents of the Township. The Board of Supervisors can remain neutral, express support or forward concerns about the project to the ZHB.
- **The Meeting.** Present your request in a thorough and thoughtful manner. Have the project and property particulars readily available as you will likely be asked to provide further details. Keep in mind that the ZHB will be considering not only the effect on your property but also on the neighbors and the community at large.
- **ZHB Decision.** The Zoning Hearing Board has 45 days from the conclusion of the hearing to render a written decision on the application.

Your presentation to the ZHB becomes the official record, which is why it is important to prepare a thorough and complete presentation.