

## ARTICLE 21

### ZONING HEARING BOARD: POWERS AND DUTIES

The Zoning Hearing Board shall have the following powers and duties:

**SECTION 21.01 – ADMINISTRATIVE REVIEW:** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this Ordinance.

#### **SECTION 21.02 - SPECIAL EXCEPTIONS: CONDITIONS GOVERNING**

**APPLICATIONS: PROCEDURES:** To hear and decide only such Special Exceptions as the Zoning Hearing Board is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether Special Exceptions should be granted and to grant Special Exceptions with such conditions and safeguards as are appropriate under this Ordinance or to deny Special Exceptions when not in harmony with the purpose and intent of this Ordinance. A Special Exception shall not be granted by the Zoning Hearing Board unless and until:

- A. A written application for a Special Exception is submitted indicating the section of this Ordinance under which the Special Exception is sought and stating the grounds on which it is requested.
- B. First notice shall be given at least fourteen (14) days, and no more than thirty (30) days, in advance of public hearing. The owner of the property for which Special Exception is sought and the Lebanon County Planning Department shall be notified by mail. Notice of such hearing shall be posted at the Township meeting place, and in one (1) newspaper of general circulation in the Township. The news article shall be published once a week for at least two (2) successive weeks. In addition a notice of said hearing shall be conspicuously posted on the affected tract of land.
- C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- D. The Zoning Hearing Board shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the Special Exception, and that the granting of the Special Exception will not adversely affect the public interest.
- E. Before any Special Exception shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual Special Exceptions and that satisfactory provisions and arrangements have been made concerning the following, where applicable:
  1. Ingress and egress to property and proposed structures thereon with particular reference to automotive, and pedestrian safety and convenience, traffic flow and control and the access in case of fire and catastrophe.
  2. Off-street parking and loading areas where required, with particular attention to the items in number one above and the economic, noise, glare, or other effects of the

Special Exception on adjoining properties generally in the district.

3. Refuse and service areas, with particular reference to the items in number one and two above.
  4. Utilities with reference to locations, availability, and compatibility.
  5. Screening and buffering with reference to type, dimensions, and character.
  6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
  7. Required yards and other open space.
  8. General compatibility with adjacent properties and other properties in the district.
- F. Before any special exception concerning Communications Towers shall be issued the Board shall also require compliance with the following standards:
1. The applicant shall demonstrate that is licensed by the Federal Communications Commission to operate a Communications Tower, if applicable, and Communications Antennas.
  2. The applicant shall demonstrate that the proposed Communications Tower and Communications Antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
  3. Communications Towers shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation regulations.
  4. Any applicant proposing construction of a new Communications Towers shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure, or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half (1/2) mile radius of the proposed Communications Tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
    - a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
    - b. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
    - c. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended

function.

- d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
  - e. A commercially reasonable agreement could not be reached with the owners of such structures.
5. Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with at least a durable and dustless gravel surface.
  6. A. Communications Tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for Zoning District.
  7. The applicant shall comply with the Land Development and Subdivision Regulations of the County of Lebanon, Pennsylvania to the extent the same are applicable.
  8. The applicant shall demonstrate that the proposed height of the Communications Tower is the minimum height necessary to perform its function.
  9. Every Communications Tower shall be set back one (1) foot for each one (1) foot of height of the Communications Tower flow adjoining property lines (not lease lines).
  10. Irrespective of anything contained in Section 16.05 to the contrary, the maximum height of any Communications Tower with Communications Antenna attached shall be one hundred fifty (150) feet; provided, however, that such height may be increased to no more than two hundred (200) feet, provided the required setbacks from adjoining property lines (not lease lines) are increased by one (1) foot for each one (1) foot of height in excess of one hundred fifty (150) feet.
  11. The foundation and base of any Communications Tower shall setback from a property line (not lease line) at least fifty (50) feet.
  12. The communications Equipment Building shall comply with the required yards and height requirements of the applicable Zoning District for an accessory structure.
  13. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna supporting Structures, published by the Electrical industrial Association/Telecommunications Industry Association and the requirements of any applicable Building Code.
  14. The applicant, shall submit a copy of its current Federal Communications Commission

license; the name, address and emergency telephone number for the operator of the Communications Tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower and Communications Antennas.

15. Guyed Communications Towers shall be prohibited.
16. The site of a Communications Tower shall be secured by a fence and gate of design approved by the Township Engineer. Such fence and gate shall be not less than eight (8) feet in height, including barbed wire at the top, and shall completely enclose the Communications Tower. This fencing shall be designed to be compatible with surrounding land uses. The gate shall be kept locked to preclude access by general public.
17. No signs or lights shall be mounted on a Communications Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.
18. Communications Towers shall be protected and maintained in accordance with the requirements of any applicable Building Code.
19. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period. Financial security shall be deposited with the Township in an amount equal to 110% of the cost estimated for the dismantling and removal. Such financial security shall be in the form of Federal or Commonwealth chartered lending institution irrevocable letters of credit or restrictive or escrow accounts in such lending institutions. The cost estimate for the dismantling and removal shall be prepared and presented to the Township by a Professional Engineer, licensed to practice in the Commonwealth of Pennsylvania and shall bear his or her certification that the cost estimate is fair and reasonable. The applicant shall bear the cost of obtaining this estimate. The amount of the financial security may be increased by the Township by an additional 10% for each one-year period beyond the first anniversary date from the posting of financial security.
20. One off-street parking space shall be provided within the fenced area.

**SECTION 21.03 – VARIANCE, CONDITIONS GOVERNING APPLICATIONS,**

**PROCEDURES:** To authorize upon appeal in specific cases such Variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A Variance from the terms of this Ordinance shall not be granted by the Zoning Hearing Board unless and until:

- A. A written application for a Variance is submitted demonstrating:
  1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the term of this Ordinance.
3. That the special conditions and circumstances do not result from the action of the applicant.
4. That granting the Variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings, in the same district.

No nonconforming use of the neighboring lands, structures, or buildings in other districts shall be considered grounds for the issuance or a Variance.

- B. Notice of public hearing shall be given as in Article 21, Section 21.02 (B) above.
- C. The public hearing shall be held. Any party may appear in person, or by agent, or by attorney.
- D. The Zoning Hearing Board shall make findings that the requirements of Article 21, Section 21.03 (A) have been met by the applicant for a Variance.
- E. The Zoning Hearing Board shall further make a finding that the reasons set forth in the application justify the granting of the Variance that will make possible the reasonable use of land, building, or structure.
- F. The Zoning Hearing Board shall further make a finding that the granting of a Variance will be in harmony with the general purpose, and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting a Variance, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

Violation of such conditions and safeguards, when made a part of the terms under which Variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 28 of this Ordinance.

**SECTION 21.04 – BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS: REVERSING DECISION OF ADMINISTRATIVE OFFICIAL:**

In exercising the above mentions powers, the Zoning Hearing Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made, and shall have the powers of Administrative Official from whom appeal is taken. The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision, or on determination of the Administrative Official, or to decide in favor of the applicant on any matter which it is required to pass under this Ordinance, or to effect any variation on the application of this Ordinance.