

**A Guide for Appearing Before the
Baldwin Borough Zoning Hearing Board**



**Baldwin Borough
3344 Churchview Ave.
Pittsburgh, PA 15227**

I. INTRODUCTION

Chapter 168, of the Code of the Borough of Baldwin, also known as the Zoning Chapter, set forth the regulations concerning the use density, and maintenance of the land, buildings and structures within the Borough of Baldwin. The Zoning Chapter designates two residential, two commercial and two industrial districts which along with the regulations, are intended to:

Accommodate reasonable overall community growth, including population and employment growth, opportunities for development of a variety of residential dwelling types and commercial use.

II. VARIANCE

A. What is a variance?

A variance is a relief from the provisions of the Zoning Ordinance, granted exclusively by the Zoning Hearing Board (see Section III of this report for an explanation of the role and duties of the Zoning Hearing Board). The Zoning Hearing Board will hear requests for a variance in cases “where it is alleged that the provision of the Zoning Chapter inflicts unnecessary hardship upon the applicant” (910.2 Pennsylvania Municipalities Planning Code). It is important to note that a variance is property related; in other words, if an application is granted a variance for specific use, and the owner subsequently moves elsewhere the variance still applies to the property, as long as the standards established by the Zoning Hearing Board are maintained. A variance cannot be “carried from another property”.

B. Why do I need a variance?

It is often believed that when a resident or business owner wishes to utilize his or her property in a manner that is not permitted in the Zoning Chapter, the logical recourse is to apply for a variance. However, the Pennsylvania Municipalities Planning Code which is the legislation that enables municipalities within Pennsylvania to enact and enforce zoning and other regulatory ordinances, specifically outlines conditions under which a variance may be granted.

Zoning Hearing Board and Variance Criteria

The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may, by rule, prescribe the form of application and may require preliminary application to the zoning officer. To be granted a variance, **ALL** the following criteria must be met:

1. *There is unnecessary hardship created by the unique physical conditions of the property. Physical conditions include irregularity, narrowness, shallowness of lot size or shape, or exceptional topographical or other physical conditions that are not created by the provisions of the zoning ordinance.*
2. *That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
3. *That such unnecessary hardship has not been created by the appellant. Financial Hardship shall not be construed as the basis for granting a variance.*
4. *That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, not be detrimental to the public welfare.*
5. *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.*

In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this act and the zoning ordinance.

III. WHAT IS THE ZONING HEARING BOARD?

Every Borough which has enacted a zoning ordinance is required to have a Zoning Hearing Board. The rules and regulations of the Borough of Baldwin Zoning Hearing Board were originally adopted in 1973. It was Amended in 2016, in accordance with the Pennsylvania Municipalities Planning Code.

A. Purpose of The Board

The purpose of the Zoning Hearing Board is to conduct hearings and render decisions regarding requests for variances to the Zoning Chapter. Hearings conducted by the Board are quasi-judicial proceedings. This means that, although formal rules of evidence do not strictly apply, the record created during a hearing in front of the Board is considered to be a legal record of proceedings.

B. Membership

The Zoning Hearing Board consists of five members, all of whom must be residents of Baldwin Borough. Borough Council selects the members and appoints them for five-year terms. The terms are staggered in such a way that no more than two members shall expire in any given year. Annually the board elects a Chair to serve for the calendar year.

IV. THE HEARING PROCESS

A. The Initial Application

1. Obtain the proper application forms from the office of the Zoning Officer, of the Baldwin Borough Municipal Building, located at 3344 Churchview Ave.
2. Fill out the application as directed; be careful to follow all the directions closely.
3. Return application and supporting documents, with a fee of \$500.00 for cases involving residential properties up to 1-2 dwellings units, \$1,000.00 for all other cases, to the Zoning Officer. (Note: all checks or money orders are to be made out to Baldwin Borough, no cash)
4. All applications for variances to the Zoning Chapter must be submitted within thirty (30) days of the date on which the Zoning Officer denied, in writing, the application for a Building Permit.
5. All properly completed applications will be placed on the calendar of the Zoning Hearing Board and a hearing date will be set within sixty (60) days of receipt of the application.
6. Because of legally imposed time requirements, this is a lengthy process. **PLEASE BE ADVISED THAT A PERIOD OF AT LEAST NINTY (90) DAYS SHOULD BE ALLOWED FROM THE DATE OF THE INITIAL APPLICATION TO THE RECEIPT OF THE FINAL DECISION.**

B. Notification of the Hearing

The Board will give public notice of the hearing on any appeal to the Zoning Chapter. Such notice is required to state the nature of the appeal, the location of the property, and the time and place of the hearing itself. The notice will be made public in the following manner.

1. The notice will be posted in a conspicuous location on or near the property involved one (1) week prior to the hearing and must remain until the hearing.

2. A public notice will be published in the local newspaper at least fourteen (14) days before the scheduled hearing and a second public notice at least seven (7) days prior to the scheduled hearing.

C. The Hearing

1. The appellant has the option to bring their own counsel or agent.
2. All persons giving testimony will be officially sworn in.
3. The record created during a hearing is considered to be a legal record of the proceedings, and will constitute evidence for any appeal to the Court of Common Pleas. A stenographic record of the proceeding will be made. If a party requests a transcription of the stenographic record, the requesting party will be charged the fee for transcription.
4. The hearing will be conducted as follows:
 - a. Appellant presents his or her own case. Expert witnesses may be introduced at this time.
 - b. The Zoning Officer may be called upon at the discretion of the Board for testimony.
 - c. Citizens in favor of the proposed shall be heard.
 - d. Citizens opposed to the proposal shall be heard.
 - e. In addition, any citizen may present pertinent information to the Board, either prior to or at the time of the hearing. Such material will be made part of the official record of the proceedings.

D. The Decision

1. The Zoning Hearing Board must render a final decision within 45 days of the date of the hearing.
2. Official copies of the decision will be distributed to the Zoning Officer, Chairman of the Zoning Hearing Board and by mail to the applicant.
3. Unofficial copies will be sent to other parties who are directly interested in the property involved. There could be fee for the individuals requesting copies.
4. **BE ADVISED AT NO TIME SHOULD THE APPLICANT OR ANY OTHER INTERESTED PARTY CONTACT ANY MEMBER OF THE ZONING HEARING BOARD OR STAFF REGARDING THE FINAL DECISION.**

5. In the event that the variance is granted, all special standards and conditions will be stated in the final decision and also in the building permit issued by the Code Enforcement Officer. The permit will remain valid as long as the standards and conditions are observed and maintained.
6. Unless otherwise specified the variance shall be perpetual with the land.
7. Because of the legally imposed time requirements, this is a lengthy process. **BE ADVISED THAT A PERIOD OF AT LEAST NINETY (90) DAYS SHOULD BE ALLOWED FROM THE DATE OF THE INITIAL APPLICATION TO THE RECEIPT OF THE FINAL DECISION.**

E. Record of The Proceedings.

All records of hearings conducted by the Baldwin Borough Zoning Hearing Board are public, and are open for review during regular business hours, provided that the Zoning Officer or any other members of the Zoning Hearing Board are present at the time of review at the Baldwin Borough Municipal Building 3344 Churchview Avenue.



BALDWIN BOROUGH ZONING HEARING BOARD APPLICATION

The Applicant hereby requests:

- Appeal from a determination of the Zoning Officer
- A Special Exception
- A Variance
- Challenges the validity of the Ordinance or Map
- Other relief within the jurisdiction of Baldwin Borough Zoning Hearing Board as established in section 909.1 (a) of the Pennsylvania Municipalities Planning Code.

Property Information

Address Locations: _____

Lot & Block: _____ Size of Property: _____

Present Zoning: _____

Describe the General Character of the Area or Neighborhood: _____

Applicant Information

Name: _____

Address: _____

Phone No. _____ Cell: _____ Fax: _____

Email: _____

Property Owner Information (If different than Applicant Information)

Name: _____

Address: _____

Phone No. _____ Cell: _____ Fax: _____

Email: _____



Applicant Representative Information

I am not represented by an attorney in connection with this application

I am being represented by an attorney

Attorney's name, address, phone no. and email

Appeal from Determination of the Zoning Officer

The action taken by the Zoning Officer was: _____

The date action was taken: _____

The action was in error because: _____

(Attach a copy of any written order issued by the Zoning Officer in connection with this issue.)

Request for Special Exception

Nature of Special Exception sought is: _____

The Special Exceptions is allowed under: Article _____ Section _____ Subsections _____
Of the Baldwin Borough Zoning Ordinance

The reason for the request is: _____

(If allocable attach documentation demonstrating compliance with all applicable standards set by the Baldwin Borough Zoning Ordinance for Special Exception)

Request for Variance

Nature of the Variance sought is: _____
The Variance is from: Article _____ Section _____ Subsections _____
Of the Baldwin Borough Zoning Ordinance



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

(Zoning Hearing Board and Variance Criteria, page 1&2 of packet)

Challenging the validity of a Zoning Map Ordinance or Map

Identify the provision of the ordinance or map which you believe to be invalid: _____

The challenge is ready for a decision because: _____

The provision challenged is invalid because: _____

(Attach a copy of the ordinance and map you are challenging.)

Applicants Signature: _____ **Date:** _____

Owner Signature: _____ **Date:** _____

Official Use Section

Date Received: _____

Zoning Officer Signature: _____

Date Set for Hearing: _____

Comments: _____

