

## **Green Tree Zoning Hearing Board A Guide for Requesting a Variance**

Chapter 420 of the Codified Ordinances of the Borough of Green Tree, Zoning, outlines the all of the regulations concerning the use, density and maintenance of land, buildings and structures within the Borough of Green Tree.

### **Variations: What, Why and How**

A variance is a relief from the provisions of the Zoning Ordinance and is granted exclusively by the Zoning Hearing Board. Requests for variances are heard when the provisions within the Zoning Ordinance appear to cause unnecessary hardship upon the applicant. Variances are property related, meaning they only apply to the property in question, not the person applying for the variance. A variance cannot be carried from one property to another.

A variance may be granted by the Zoning Hearing Board if the following conditions are met:

- The property has unique physical characteristics that cause unnecessary hardship on the property owner.
- Because of the physical characteristics of the land, there is no way that the property can be developed in conformity with the provisions outlined in the Zoning Ordinance.
- The hardship being experienced was not created by the applicant.
- The variance, if granted, will not alter the character of the neighborhood, impair the use or development of the adjacent properties, or be harmful to the general welfare of the public.
- The variance being granted represents the minimum variance that will give relief from the hardship being experienced.

### **Zoning Hearing Board**

Chapter 420, Article III of the Codified Ordinances of the Borough of Green Tree outlines the duties and appointment process of the Zoning Hearing Board members, which is in conformance with Article IX of the Pennsylvania Municipalities Planning Code. The purpose of the Board is to conduct public hearings and make decisions regarding the requests for variances. The Board consists of five members, all of whom are residents of Green Tree. Borough Council appoints the members to three year terms, and they are staggered so that the terms of not more than two members expire each year. The meetings are held on Thursday evenings, and are scheduled on an “as needed” basis.

## Procedure for Requesting a Variance

### A. Application Process

1. The Applicant shall obtain the proper form from the Green Tree Borough administrative office located at 10 W. Manilla Avenue or copy the form from the Borough web site at [www.greentreeboro.com](http://www.greentreeboro.com).
2. The forms must be returned to the Borough administrative office along with the necessary filing fee. The filing fee for a residential property is \$120.00, the filing fee for a non-residential property is \$250.00, and the filing fee for a use by special exception is \$250.00. All applicants must also pay ½ of the fee charged by the court reporter for recording the hearing. The applicant will be sent an invoice for the court reporter's fee after the hearing. All fees are non-refundable and may not be applied to any other permits.
3. If the variance request is in response to a Violation Notice issued by the Borough Code Enforcement Officer, the application must be submitted with thirty (30) days of the date of the Violation Notice.
4. A hearing date for the Zoning Hearing Board will be scheduled for all properly completed applications within sixty (60) days of the receipt of the Application.
5. It should be noted that the Variance process is quite lengthy, and it could take up to 105 days to receive a decision from the Zoning Hearing Board after the date of the initial Application.

### B. Notification of Hearing

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

1. The notice will be posted in a conspicuous location as near to the subject property as possible. This is done at least one (1) week prior to the hearing.
2. A copy of the notice will be mailed to the applicant and to all surrounding property owners within 200 feet of the borders of the subject property.
3. A public notice will be published once each week for two consecutive weeks in a newspaper of general circulation. The first date of publication will be not more than thirty (30) days prior to the hearing date and the second date of publication will be at least seven (7) days prior to the date of the hearing.

### C. The Hearing

1. The applicant may appear in person or may be represented by council or agent. If the applicant wishes to be represented by an agent, a letter to the Zoning Hearing Board from the applicant stating that the agent may act on his/her behalf must be submitted to the Zoning Hearing Board prior to the hearing.
2. The record created during a hearing is considered to be the legal record of the proceeding, and will constitute evidence for any appeal to the Court of Common Pleas. A stenographic record of the proceeding will be made. The applicant and the Borough of Green Tree will share the cost of the appearance of the stenographer. This will be invoiced following the hearing. If a party requests a stenographic record, the requesting party will be charged for same.
3. The hearing will be conducted as follows:
  - All persons that will be offering testimony will be sworn in.
  - Appellant presents his/her case. Expert witnesses may be introduced at this time.
  - The Code Enforcement Officer may be called upon at the discretion of the Board to give testimony.
  - Citizens in favor of the proposal shall be heard.
  - Citizens opposed to the proposal shall be heard.
  - In addition, any citizen may present pertinent information to the Board 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 make a final decision in writing within 45 days of the date the hearing is closed.
2. The written decision will be issued to the Code Enforcement Officer, who will circulate the decision to the Zoning Hearing Board and the applicant.
3. Unofficial copies will be sent to other parties who make such request in writing at the time of the hearing.
4. At no time should the applicant or any other interested party contact any member of the Zoning Hearing Board or its 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.
6. Unless otherwise specified, the variance will expire if the applicant fails to obtain a permit from the Borough within six (6) months of the date of the final decision.

7. Please be advised that a period of at least 45 days should be allowed from the date of the hearing to the receipt of the final decision.

E. Record of the Proceedings

All records of hearings conducted by the Zoning Hearing Board are public and are open to the public for inspection at any time, provided that a Borough representative is present at the time of inspection. Such records are open for inspection between the hours of 8:00 AM and 4:00 PM prevailing time at the Borough of Green Tree Administrative Office located at 10 W. Manilla Avenue.

**PLEASE NOTE:** The granting of a variance only allows the applicant to vary from the Zoning Code as specified by the decision set forth by the Zoning Hearing Board. The applicant will still be required to receive site plan approval, a building permit, a grading permit, or any other approvals or permits that may be required by the Codified Ordinances of the Borough of Green Tree prior to the start of any improvement to the subject property.