

ORDINANCE NO. ~~760~~ 70

AN ORDINANCE AMENDING ARTICLE XVII,
ARTICLE XVIII AND XIX OF THE
EAST NORRITON ORDINANCE OF 1963

SECTION 1700. The Board of Supervisors shall appoint a Zoning Hearing Board consisting of three (3) members. The word "board" when used in this Article shall mean the Zoning Hearing Board.

SECTION 1701. Membership of Board. The membership of the board shall consist of three residents of the Township appointed by the Board of Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other office in the municipality, except that no more than one member of the board may also be a member of the planning commission.

SECTION 1702. Removal of Members. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors, taken after the member has received fifteen 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.

SECTION 1703. Organization of Board. The board 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 be not less than a majority of all the members of the board but the board 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 board as provided in Section 1704. The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth. The board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors once every three months so as to coincide with the calendar year quarters.

SECTION 1704. Hearings. The board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Notice shall be given to the public, the applicant, the county planning commission, the township planning commission, the township engineer, the township secretary, the township zoning officer and to any person who has made timely request for the same. Notice shall be given by mail and by publishing a notice thereof in a newspaper of general circulation published or circulated in the Township, at least ten (10) days in advance of the hearing. The notice herein required shall state the location of the building or lot and the general nature of the question involved but shall be sufficient to provide adequate notice of all questions to be considered. Notice to the County Planning Commission, the Township Planning Commission, the Township Engineer and the Township Zoning Officer shall include a copy of the plot plan, if any, filed.
- B. The hearings shall be conducted by the board or the board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the board, but the parties may waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
- C. The parties to the hearing shall be any person who is entitled to notice under clause (A) without special request therefore who has made timely appearance of record before the board and any other person permitted to appear by the board.
- D. The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including 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 board or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recording, 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 board 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 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 with any party or his representative unless all parties are given an opportunity to be present.
- I. The board 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. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of Act 247, the Pennsylvania Municipality Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings. Where the board has power to render a decision and the board or the hearing officer, as the case may be, fails to render the same within the period required by this clause, the decision shall be deemed to have been rendered in favor of the applicant.
- J. A copy of the final decision or, where no decision is called for, of the findings shall be delivered

to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

- K. The board shall be provided by the Board of Supervisors with secretarial help who may be employees or office holders of the Township.

SECTION 1705. Board's Functions: Appeals from the Zoning Officer - The board shall hear and decide appeals where it is alleged by the appellant that the zoning officer has failed to follow prescribed procedures or has @ misinterpreted or misapplied any provision of a valid ordinance or map or any valid rule or regulation governing the action of the zoning officer.

SECTION 1706. Board Functions: Challenge to the Validity of any Ordinance or Map - Except as provided in Section 1707, relating to variances, the board shall have no power to pass upon the validity of any provision of an ordinance or map adopted by the governing body. Recognizing that challenges to the validity of an ordinance or map may present issues of fact and of interpretation which may lie within the special competence of the board, and to facilitate speedy disposition of such challenges by a court, the board may hear all challenges wherein the validity of the ordinance or map presents any issue of fact or of interpretation, not hitherto properly determined at a hearing before another competent agency or body, and shall take evidence and make a record thereon as provided in Section 1704. At the conclusion of the hearing, the board shall decide all contested questions of interpretation and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

SECTION 1707. Board Functions: Variances. 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. The board may grant a variance provided the following findings are made where relevant in a given case:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or

- shallowness of lot size of shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- B. 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.
 - C. That such unnecessary hardship has not been created by the appellant.
 - D. 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 adjacent property, nor be detrimental to the public welfare; and
 - E. 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.
 - F. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

SECTION 1708. Board Functions: Special Exceptions.
Where the Board of Supervisors in the zoning ordinance, has stated special exceptions to be granted or denied by the board, the board shall hear and decide requests for such special exceptions, in accordance with the following standards and criteria:

- A. The suitability for the property for the use desired.
- B. The effect of the proposed use upon the safety and health of the immediate neighborhood, and the general public therein.

- C. The effect of the proposed use upon the character of the immediate neighborhood so as to conserve the value of existing buildings and encourage the most appropriate use of the land.

In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance. The board is charged with using its sound discretion in considering special exceptions in that the uses subject to the special exception have not been permitted in a given district but rather must be considered on a case by case basis.

ARTICLE XVIII

VIOLATIONS, FINES, REMEDIES, AND CHARGES

SECTION 1800. Violations. It shall be the duty of the Zoning Officer to take cognizance of violations of this ordinance. He shall investigate each violation which comes to his attention whether by observation or communication. He shall order in writing the correction of such conditions as are found to be in violation of this ordinance.

Failure to secure a zoning permit or Zoning Hearing Board Certificate when required, previous to the erection, construction, extension, or addition of a building shall be a violation of this ordinance.

SECTION 1801. Notice of Violation. If a violation is not corrected within thirty (30) days after the date upon which the Zoning Officer issued an order to correct such condition, it shall be the duty of the Zoning Officer to notify the Board of Supervisors, which will take the necessary action to correct the violation. However, if in the opinion of the Zoning Officer, the violation creates an imminent danger to life and property, the violator shall be ordered to discontinue such violation immediately.

SECTION 1802. Fines. For any and every violation of the provisions of this ordinance, the owner, general agent or contractor of a building or premises where such violation has existed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, building contractor or any other person who knowingly commits, takes part or assists in any such violation, or who maintains any building or premises in which any such

violation shall exist, shall be liable on conviction thereof to a fine not exceeding five hundred (\$500) dollars for each and every offense. In default of payment of the fine, such person, the members of such partnership, or the officers of such corporation, shall be liable to imprisonment for not more than sixty (60) days in Montgomery County Prison. Whenever such person shall have been notified by the Zoning Officer or by service of warrant in a prosecution, or in any other way, that he is committing such violation of this ordinance, each day that he shall thereafter continue the violation shall constitute a separate offense punishable by a like fine or imprisonment.

SECTION 1803. Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building structure or land is used or any hedge, tree, shrub or other growth is maintained in violation of this ordinance or of any regulations made pursuant hereto, in addition to other remedies provided by law, any appropriate action or proceedings, by authorized legal process may be instituted or taken to prevent such unlawful erection, construction or reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupance of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 1804. Charges. The Board of Supervisors shall establish a fee schedule in which shall be listed the various fees for applications, permits and hearings in accordance with this ordinance. Said fee schedule shall be as nearly as possible based upon actual cost to the Township for said applications, permits and hearings and may be amended from time to time as deemed necessary by resolution of the Board of Supervisors. *By Resolution*

ARTICLE XIX

AMENDMENTS

SECTION 1900. Amendment by Governing Body. The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this ordinance, including, the zoning map, by proceeding in the following manner, and as otherwise required by law.

SECTION 1901. Amendment Procedure. The Board of Supervisors by resolution adopted at a regular or special meeting, shall fix

the time and place of a public hearing on the proposed amendment and cause public notice thereof to be given as follows:

- A. By publishing a notice thereof in one (1) newspaper of general circulation in the Township, once each week for two successive weeks, not more than thirty (30) days and not less than fourteen (14) days in advance of the hearing.
- B. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing.
- C. The notice shall also state that all interested persons may appear and be heard.

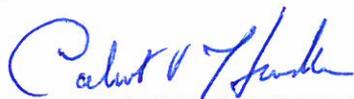
SECTION 1902. Planning Commission. In the case of an amendment other than that prepared by the Township Planning Commission, the Board of Supervisors shall submit each such amendment to the Township Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Township Planning Commission an opportunity to submit recommendations.

ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE INCONSISTENT HEREWITH INCLUDING ARTICLES XVII, XVIII AND XIX OF THE EAST NORRITON TOWNSHIP ZONING ORDINANCE OF 1963 ARE HEREBY REPEALED.

APPROVED BY THE BOARD OF SUPERVISORS OF EAST NORRITON TOWNSHIP AND ENACTED AND ORDAINED INTO AN ORDINANCE THIS 9th DAY OF NOVEMBER, 1970.

Chairman - Board of Supervisors

ATTEST:



Secretary