

**PART 18**

**ZONING HEARING BOARD AND OTHER ADMINISTRATIVE PROCEEDINGS**

**§27-1801. Establishment of Zoning Hearing Board.**

A Zoning Hearing Board is established in order that the objectives of this Chapter may be more fully and equitably achieved and a means for competent interpretation of this Chapter provided.

(Ord. 319-A, 3/21/2000, Art. 18, §114-156)

**§27-1802. Membership, Terms of Office of Zoning Hearing Board.**

1. The Zoning Hearing Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The 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 Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Borough.
2. Alternate Members. The Borough Council may appoint by resolution at least one but not more than three residents of the Borough to serve as alternate members of the Zoning Hearing Board, subject to the following provisions:
  - A. The term of office of an alternate member shall be three years.
  - B. Alternate members shall hold no other office in the Borough.
  - C. Any alternate member may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor receive any compensation (if such compensation exists) unless designated as a voting alternate member.
  - D. If, by reason of absence or disqualification of a Zoning Hearing Board member, a quorum is not reached, the Chair of the Zoning Hearing Board shall designate as may alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate members was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate member shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

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(Ord. 319-A, 3/21/2000, Art. 18, §114-157)

### **§27-1803. Removal of Member of Zoning Hearing Board.**

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council, taken after 15 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.

(Ord. 319-A, 3/21/2000, Art. 18, §114-158)

### **§27-1804. Organization of Zoning Hearing Board.**

1. Officers. The Zoning Hearing Board shall elect a chair from its membership and shall appoint a secretary. The Chair, or in his absence the Acting Chair, may administer oaths and compel the attendance of witnesses.
2. Procedures. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Borough and laws of the Commonwealth.
3. Meetings. Meetings shall be open to the public and shall be at the call of the chair and at such other times as the Zoning Hearing Board shall specify in its rules of procedure. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board.
4. Records and Decisions. The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be the property of the Borough and shall be a public record. The Zoning Hearing Board shall submit a report of its activities to the Borough Council as requested by the Borough Council.

(Ord. 319-A, 3/21/2000, Art. 18, §114-159)

### **§27-1805. Expenditures for Services of Zoning Hearing Board.**

1. The Borough Council shall fix per meeting compensation for the members of the Zoning Hearing Board according to a schedule adopted by resolution of the Borough Council upon enactment of this Chapter or as such schedule may be amended from time to time. Such compensation shall not exceed the rate of compensation authorized to be paid to the members of the Borough Council.

2. Alternate members may receive compensation for the performance of their duties when designated as voting alternate members pursuant to §27-1802(2). Such compensation shall be in accordance with subsection (1) hereof.

(Ord. 319-A, 3/21/2000, Art. 18, §114-160)

**§27-1806. Jurisdiction of Zoning Hearing Board and Borough Council.**

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - A. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §27-1812(2)(B).
  - B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
  - C. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - D. Appeal from a determination by a Borough Engineer or the Zoning Officer with reference to the administration of any floodplain provision.
  - E. Applications for variances pursuant to §27-1807.
  - F. Applications for special exceptions pursuant to §27-1808.
  - G. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving an application for a subdivision, land development or planned residential development.
2. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - A. All applications for subdivisions and land developments pursuant to the Chalfont Borough Subdivision and Land Development Ordinance [Chapter 22]. Any provision in the Chalfont Borough Subdivision and Land Development Ordinance [Chapter 22] requiring that final action concerning subdivision and land development applications be taken by the Planning Commission rather than the Borough Council shall vest exclusive jurisdiction in the

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Planning Commission in lieu of the Borough Council for purposes of the provisions of this subsection.

- B. Applications for conditional uses pursuant to §27-1809 of this Chapter.
- C. Applications for curative amendments pursuant to §27-1812(1)(B) of this Chapter.
- D. All petitions for amendments to land use ordinances pursuant to §27-1902 of this Chapter.
- E. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to an application for a subdivision, land development or planned residential development.

(Ord. 319-A, 3/21/2000, Art. 18, §114-161)

### **§27-1807. Zoning Hearing Board; Powers and Duties; Variances.**

1. **Applicability.** Upon appeal from a determination by the Zoning Officer, the Zoning Hearing Board shall have the power to vary or adapt the strict application of any of the requirements of this Chapter where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Chapter or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition on such piece of property, the strict application of any regulation enacted under this Chapter would result in peculiar and exceptional and undue hardship upon the owner of such property, but in no other case.
2. **Condition.** In general, the power to authorize a variance from the terms of this Chapter shall be sparingly exercised and only under peculiar and exceptional circumstances.
3. **Requirements and Standards.** No variance shall be granted by the Zoning Hearing Board unless the requirements and standards of this Chapter are satisfied. The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate that the appeal for the variance is in conformance with the following requirements and standards listed below:
  - A. That the granting of the variance shall be in harmony with the general purpose and intent of this Chapter and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- B. That the granting of the variance will not permit the establishment within a zoning district of any use which is not permitted in that zoning district.
  - C. There must be proof of unique circumstances, that there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood and that said circumstances or conditions are such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of such land or building.
  - D. There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, hardship complained of cannot be self-created, it cannot be claimed by one who purchases with or without knowledge of restrictions, it must result from the application of this Chapter, it must be suffered directly by the property in question and evidence of a variance granted under similar circumstances shall not be considered.
  - E. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Hearing Board is the minimum variance that will accomplish this purpose.
  - F. The Zoning Hearing Board may impose whatever conditions and safeguards it deems necessary to ensure that any proposed development or use will secure substantially the objectives of this Chapter.
4. Administration. The Zoning Hearing Board shall conduct hearings and make decision in accordance with the procedures and standards as set forth in §27-1811.

(Ord. 319-A, 3/21/2000, Art. 18, §114-162)

**§27-1808. Zoning Hearing Board; Powers and Duties; Special Exceptions.**

- 1. Applicability. The Zoning Hearing Board shall have the power to approve special exception when this Chapter specifically requires the obtaining of such approval and for no other use or purpose.
- 2. Conditions and Standards. In granting a special exception, the Zoning Hearing Board shall make findings of fact consistent with the provisions of this Chapter. The Zoning Hearing Board shall not approve a special exception except in conformance with the conditions and standards outlined in this Chapter.
- 3. General Requirements and Standards Applicable to All Special Exceptions. The Zoning Hearing Board shall grant a special exception only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements listed herein as well as any specific requirements and stan-

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dards for the proposed use. The Zoning Hearing Board shall, among other things, require that any proposed use and location be:

- A. In accordance with the Chalfont Borough Comprehensive Plan and §27-103 of this Chapter and consistent with the spirit, purposes and the intent of this Chapter.
- B. In the best interest of the Borough, the convenience of the community, the public welfare and be a substantial improvement to the property in the immediate vicinity.
- C. Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
- D. In conformance with all applicable requirements of this Chapter and all municipal ordinances.
- E. Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
- F. In accordance with sound standards of subdivision and land development practice where applicable.

The Zoning Hearing Board may impose whatever conditions and safeguards it deems necessary to ensure that any proposed development or use will secure substantially the objectives of this Chapter.

4. Review by the Planning Commission on Application for Special Exception. The Zoning Hearing Board shall request an advisory opinion from the Planning Commission on any application for a special exception, the Planning Commission is to submit a report of such advisory opinion prior to the date of the public hearing held by the Zoning Hearing Board on an application.
5. Administration. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the procedures and standards set forth in §27-1810.

(Ord. 319-A, 3/21/2000, Art. 18, §114-163)

### **§27-1809. Borough Council; Powers and Duties; Conditional Uses.**

1. Applicability. The Borough Council shall have the power to approve conditional uses when this Chapter specifically requires the obtaining of such approval and for no other use or purpose.
2. Conditions and Standards. In granting a conditional use, the Borough Council shall make findings of fact consistent with the provision of this Chapter. The Bor-

ough Council shall not approve a conditional use except in conformance with the conditions and standards outline in this Chapter.

3. General Requirement and Standards Applicable to All Conditional Uses. The Borough Council shall grant a conditional use only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements as well as any specific requirements and standards listed in subsection (D) for the proposed use and those contained in Parts 4 and 5. The Borough Council shall, among other things, require that any proposed use and location be:
  - A. In accordance with the Chalfont Borough Comprehensive Plan and §27-103 of this Chapter and consistent with the spirit, purposes and the intent of this Chapter.
  - B. In the best interests of the Borough, the convenience of the community, the public welfare and be a substantial improvement to the property in the immediate vicinity.
  - C. Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
  - D. In conformance with all requirements of this Chapter and all Borough ordinances.
  - E. Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - F. In accordance with sound standards of subdivision and land development practice where applicable.
4. Specific Requirements and Standards. The Borough Council shall:
  - A. Determine that the proposal provides for adequate access to public roads without creating hazardous conditions. In making this determination, the Borough Council may impose conditions requiring:
    - (1) Access to be limited or combined with that of adjoining properties.
    - (2) Improvement of vertical or horizontal alignment adjoining at the site or offsite if access to the site would be restricted or hazardous as a result of the alignment problem.
    - (3) Widen or replace a bridge if said bridge restricts access to the site or where the nature of the traffic generated by the proposed use would create a hazardous or restrictive situation.

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- B. Examine the use and its relationship to existing land uses to ensure that the proposed use does not adversely alter the character of stable neighborhoods and to protect adjoining residents from uses which are objectionable. To this end, the Borough Council may impose conditions requiring:
- (1) Special buffer planting, buffer yards or planted berms.
  - (2) Planting or walls to screen intrusive uses such as parking lots, loading docks, mechanical plants, etc.
  - (3) Control of location of intrusive uses so that they are sited in the least disruptive manner.
  - (4) Special design of lighting and signs to avoid disrupting existing developments or conflicting with the vision of motorists, particularly near intersections.
- C. The natural resources listed in §27-513 shall be mapped and present to provide sufficient information for completion of site capacity calculations in §27-511. Drawings and calculations shall be provided to illustrate and indicate the percentage of intrusion for each natural resource so that each standard in §27-513 may be evaluated.
- D. Many conditional uses are so classified because of their potential for nuisance. The following additional conditions shall apply to these uses:
- (1) Uses A1 General Farming. The applicant shall indicate what measures will be taken to prevent surface water and groundwater contamination from fertilizers, herbicides, pesticides and animal waste.
  - (2) Uses E10 Recreational Facility.
    - (a) The maximum impervious surface for these uses shall be 60%.
    - (b) The applicant shall demonstrate that the proposed use can meet the noise standards of §27-521 of this Chapter.
  - (3) Use E12 Veterinary Office or Clinic. The applicant shall indicate what measures will be taken to abate animal noises.
  - (4) Use E21 Flea Market. The Borough Council shall determine the hours and days of operation to prevent conflicts with surrounding land uses.
  - (5) Use G10 Junkyard. This use shall be at least 400 feet from any existing residential use.

5. The Borough Council may impose whatever conditions and safeguards it deems necessary to ensure that any proposed development or use will secure substantially the objectives of this Chapter.
6. Review by Planning Commission. The Borough Council shall request an advisory opinion from the Planning Commission on any application for a conditional use, the Planning Commission is to submit a report of such advisory opinion prior to the date of the public hearing held by the Borough Council on an application.
7. Conditional use applications shall be governed by the following:
  - A. The landowner shall make a written request to the Borough Council that it hold a hearing on the application. The request shall contain a statement reasonably informing the Borough Council of the matter that are in issue.
  - B. The application shall be accompanied by plans and other material describing the use or development proposed. Such plans and other materials shall provide a sufficient basis for evaluating the applicant's request. Information required by this Chapter shall accompany the application.
  - C. The Borough Council shall hold a hearing pursuant to public notice upon the request, commencing not later than 60 days after the completed and accepted request is filed, unless the applicant requests or consents, in writing, to an extension of time. In addition, the Borough Council shall render a written decision within 45 days after the last hearing.
8. Administration. The Borough Council shall conduct hearings and make decisions in accordance with the procedures and standards set forth in §27-1810.
9. Fees. The applicant for any hearing on a conditional use request before the Borough Council shall at the time of making application, pay a fee in accordance with a fee schedule adopted by resolution of the Borough Council or as such schedule may be amended, from time to time. In addition, an escrow deposit may be required as established by resolution of the Borough Council.

(Ord. 319-A, 3/21/2000, Art. 18, §114-164)

**§27-1810. Zoning Hearing Board/Borough Council Hearings.**

Hearings pursuant to this Chapter shall be held by the Zoning Hearing Board and/or the Borough Council in accordance with the following requirements:

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Borough Council shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by

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rules of the Zoning Hearing Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

- B. The Borough Council may prescribe reasonable fees by resolution with respect to hearings. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- C. The hearing shall be held within 60 days from the date of acceptance of the applicants completed application, unless the applicant has agreed, in writing, to an extension of time.
- D. The hearings shall be conducted by the Zoning Hearing Board. The decision or, where no decision is called for, the findings shall be made by the Board.
- E. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board and any other person, including civic or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances, in writing, on forms provided by the Zoning Hearing Board for that purpose.
- F. The Chairman or Acting Chairman of the Zoning Hearing Board 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.
- G. 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.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- I. The Zoning Hearing Board shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or shall be paid by the person appealing from the decision of the Zoning Hearing Board if such appeal is made and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

- J. The Zoning Hearing Board shall not communicate, directly or indirectly, with any party or his representatives in connection with any issued involved, except upon notice and where all parties have opportunity to participate. The Zoning Hearing Board shall not take notice of any communication, report, staff memoranda or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so notices and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- K. The Zoning Hearing Board shall render a written decision or where no decision is called for make written findings on the application within 45 days after the last hearing before the Zoning Hearing Board. Where the application is contested or denied, each decision shall be accomplished by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on the provisions of any Act of the Commonwealth or any ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. Where the Zoning Hearing Board fails to render its decision within 45 days or fails to hold the required hearing within 60 days from the date of the applicant's completed and accepted request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed, in writing or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as herein above provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection (A) of this Section. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- L. 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 45 days after the date of the last hearing. To all other person who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing 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.

(Ord. 319-A, 3/21/2000, Art. 18, §114-165)

**§27-1811. Parties Appellant Before the Zoning Hearing Board.**

Appeals under §§1806(1)(A), (B), (C), (D) and (G) of this Chapter may be filed with the Zoning Hearing Board, in writing, by the landowner affected, any officer or agency of

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the Borough or any person aggrieved. Requests for a variance under §27-1807 and for a special exception under §27-1810 of this Chapter may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

(Ord. 319-A, 3/21/2000, Art. 18, §114-166)

### **§27-1812. Validity of Ordinance; Substantive Questions.**

1. A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:
  - A. To the Zoning Hearing Board under §27-1806(1) of this Chapter.
  - B. To the Borough Council under §27-1806(2)(D) of this Chapter, together with a request for a curative amendment.
2. Persons aggrieved by a use or development permitted on the land of another by an ordinance or map or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision.
3. The submissions referred to in subsection (1) and (2) above shall be governed by the following:
  - A. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Zoning Hearing Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment, his application to the Borough Council shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein shall preclude the landowner from first seeking a final approval before submitting his challenger.
  - B. If the submission is made by the landowner to the Borough Council under subsection (1)(B) hereof, the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

- C. If the submission is made to the Borough Council, the Solicitor shall represent and advise it at the hearing or hearings.
  - D. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.
  - E. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Borough Council is found to have merit, the Borough Council may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment that will cure the challenged defects. If a challenge heard by the Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board or the Borough Council, as the case may be, shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
    - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
    - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provision of the ordinance or map.
    - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
    - (4) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
  - F. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.
  - G. If the Borough Council or the Zoning Hearing Board, as the case may be, fails to act on the landowner's request within the time limits referred to in subsection (F), a denial of the request is deemed to have occurred on the forty-sixth-day after the close of the last hearing.
4. The Zoning Hearing Board or Borough Council, as the case may be, shall commence its hearings within 60 days after the request is filed unless the landowner requests or consents to an extension of time.

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5. Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.
6. The challenge shall be deemed denied when:
  - A. The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits set forth in subsection (4).
  - B. The Borough Council notifies the landowner that it will not adopt the curative amendment.
  - C. The Borough Council adopts another curative amendment which is unacceptable to the landowner.
  - D. The Zoning Hearing Board or Borough Council, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and Borough.
7. Where after the effective date of this Chapter, a curative amendment proposal is approved by the grant of a curative amended application by the Borough Council pursuant to §27-1806(1)(A) of this Chapter or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval pursuant to the Chalfont Borough Subdivision and Land Development [Chapter 22] or Part 7 of this Chapter. Within the two year period, no subsequent change or amendment in the zoning, subdivision and land development or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one year within which to file for a building permit. Within the one year period, no subsequent change or amendment in the zoning, subdivision and land development or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.
8. If a Borough does not accept a landowner's curative amendment and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for

those provisions which specifically relate to the landowner's curative amendment and challenge.

(Ord. 319-A, 3/21/2000, Art. 18, §114-167)

**§27-1813. Court Appeals.**

All appeals from all land use decisions rendered pursuant to this Part shall be taken to the Court of Common Pleas of the judicial district wherein the land is located and shall be filed within 30 days after entry of the decision or in the case of a deemed decision within 30 days after the notice of said deemed decision is given.

(Ord. 319-A, 3/21/2000, Art. 18, §114-168)

**§27-1814. [Reserved].**

(Ord. 319-A, 3/21/2000, Art. 18, §114-169)

**§27-1815. [Reserved].**

(Ord. 319-A, 3/21/2000, Art. 18, §114-170)

