

Top Copy

\$1500

TOWNSHIP USE ONLY

CASE NO. _____

ZONING HEARING BOARD
EAST FALLOWFIELD TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

APPLICATION FOR A HEARING
(Submit seven (7) complete packets)

CHECK ALL APPLICABLE REQUESTS FOR HEARING:

- Request for Variance
- Request for Special Exception
- Challenge to Validity of the Zoning Ordinance
- Appeal from Decision of Zoning Officer

RECEIVED
JUN 12 2009
BY: *[Signature]*

1. Name of Property Owner: Brandon Dalusio
2. Address of Property Owner: 108 Cumberland Dr.
3. Telephone Number of Property Owner: _____

COMPLETE QUESTIONS #4 - #7 ONLY IF APPLICANT IS DIFFERENT FROM PROPERTY OWNER

4. Name of Applicant: _____
5. Interest of Applicant (for example, tenant or equitable owner under an agreement of sale): _____
6. Address of Applicant: _____
7. Telephone Number of Applicant: _____

8. Address of Subject Property: same as owner

9. Tax Parcel No. 4707 00551000
10. Zoning District of Subject Property: R-1
11. Name, Address and Telephone Number of Consultant, Attorney or Representative:
Robert J. BUSH, ESQ 610-692-3304
1517 McDaniel Drive, West Chester, PA 19380
12. State the present use of the property which is the subject of this application: FENCE installed within public right of way/
Drainage easement
13. State the proposed use of the property which is the subject of this application: FENCE installed within public right of way/
Drainage easement
14. State the section or sections of the Zoning Ordinance under which the Hearing is being requested: Section 1811-E
15. Please describe the grounds for the application (attach additional explanations on a separate sheet if necessary):
- A. If a request for a variance, please set forth the variances requested and the hardship to support the granting of such variances or variances: Variance request for fence encroachment.
Applicant was incorrectly informed by
Township personnel that he could erect fence a
few feet off the Township road. Applicant received
a letter from Township stating that the fence could remain.
- B. If a request for a special exception, please identify the proposed special exception, including the applicable section or sections of the Zoning Ordinance: N/A

C. If this is an appeal from a determination of the Zoning Officer, what was the determination, and what is the error alleged?: N/A

D. If a challenge to the validity of the Zoning Ordinance, please specify the Section or Sections of the Zoning Ordinance claimed to be invalid and the grounds for such alleged invalidity: N/A

16. The following are additional requirements for all special exception requests (include 7 copies of each of the following): N/A

___ A. Written report providing all of the information required by Sections 2203 of the Zoning Ordinance.

___ B. Listing of names and addresses of adjoining property owners, including properties directly across a public right-of-way.

___ C. Ground floor plans and elevations of proposed structures.

___ D. A scaled site plan with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of the Zoning Ordinance. Please note that photo graphs are helpful to the reviewer. Show all the following (if applicable):

- a dimensions and number of parking spaces
- proposed/existing front yard set back from the property line with distance shown
- proposed/existing side yard set back from the property line with distance shown
- proposed/existing rear yard set back from the property line with distance shown
- location and size of building(s)
- size of area to be used for storage use, warehouse use, work space or any other use of applicable facilities that may be helpful in reviewing the application
- driveway location, dimensions, and material
- sign location and dimensions
- dumpster location and method of screening

- lighting location(s), type, size, and height
- lot lines
- clear sight triangle(s)
- any other information that would be helpful in the review process.

___ E. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of the Zoning Ordinance, including the following:

- each of the Specific Criteria attached to the requested special exception as listed in Section 2207.2 of the Zoning Ordinance;
- the Zone requirements in which the subject property is located (e.g. setbacks, lot area, lot width, lot coverage, height, landscaping, etc);
- the General Provisions requirements listed in the Zoning Ordinance (e.g. vehicular access, off-street parking and loading, signs, screening and landscaping, etc.);
- for expansion or alteration of nonconforming uses, each of the criteria listed in Article 2000 of the Zoning Ordinance;
- for substitution or replacement of nonconforming uses, those criteria listed in Article 2000 of the Zoning Ordinance;
- for special exceptions proposed in the Floodplain Zone, those regulations contained in the Zoning Ordinance; and
- each of the General Criteria listed in the Zoning Ordinance.

___ F. Signs: If the applicant anticipates erecting a sign, the sign information must be submitted with the paperwork for this hearing. Signs must be approved by the Zoning Hearing Board at the hearing.

17. The following are additional requirements for all variance requests (include 7 copies of each of the following):

- A. A written description of the proposed use in sufficient detail to demonstrate compliance with each of those criteria listed in Section 2207.1 of the Zoning Ordinance. (see 15A.)
- B. Listing of names and addresses of adjoining property owners.

115 Lehigh Drive

122 Lehigh Drive

112 Cumberland Drive

✓ C. A scaled site plan with sufficient detail and accuracy to depict the nature of the request and reflect its relationship with adjoining properties, and their improvements. Please note that photographs are helpful to the reviewer. Show all the following (if applicable):

- dimensions and number of parking spaces
- proposed/existing front yard set back from the property line with distance shown
- proposed/existing side yard set back from the property line with distance shown
- proposed/existing rear yard set back from the property line with distance shown
- location and size of building(s)
- size of area to be used for storage use, warehouse use, work space or any other use of applicable facilities that may be helpful in reviewing the variance application
- driveway location, dimensions, and material
- sign location and dimensions
- dumpster location and method of screening
- lighting location(s), type, size, and height
- lot lines
- clear sight triangle(s)
- any other information that would be helpful in the review process.

 D. For use variances, a written report and scaled site plan demonstrating compliance with all applicable provisions of the Zoning Ordinance including the following:


- the Zone requirements in which the subject property is located (e.g, setbacks, lot area, lot width, lot coverage, height, landscaping, etc);
- the General Provisions requirements listed in the Zoning Ordinance (e.g. vehicular access, off-street parking and loading, signs, screening and landscaping, etc.);

18. This application is not complete until the fee established for such applications by ordinance or resolution of the East Fallowfield Township Board of Supervisors has been paid by Applicant and all information required by this application has been furnished. The hearing fee is \$ 1,500.00 (all checks should be made payable to "East Fallowfield Township".)

19. In making this application, the Applicant agrees to pay all fees required by the fee schedule adopted by the East Fallowfield Township Board of Supervisors by ordinance or resolution in effect on the date of the application.
20. Applicant agrees to post a sign or signs (provided by the Township) at conspicuous locations along the perimeter of the subject property sufficient to notify potentially interested citizens of the zoning hearing. The sign or signs shall be posted continuously at least one week prior to the date of the hearing. Applicant agrees to return the sign or signs to the East Fallowfield Township Municipal Building on the night of the hearing.
21. If the application is approved, Applicant, in accordance with Section 2208 of the Zoning Ordinance, will have six (6) months from the date of such approval to apply for and secure a zoning permit and commence the authorized construction. All authorized construction must be completed within twelve (12) months from the date of such approval. Should the applicant fail to obtain the necessary permits within said six (6) month period, or having obtained the permit should he fail to commence work thereunder within such six (6) month period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board. Should the applicant commence construction or alteration within said six (6) month period, but should he fail to complete such construction or alteration within said twelve (12) month period, the Board may upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the applicant, if the Board finds that a good cause appears for the failure to complete within such twelve (12) month period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.

BY SIGNING THIS APPLICATION, I, THE APPLICANT, DO HEREBY VERIFY THAT I HAVE REVIEWED AND UNDERSTAND THE STATEMENTS MADE IN THIS APPLICATION AND THAT ALL SUCH STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THESE STATEMENTS ARE BEING GIVEN BY ME TO INDUCE OFFICIAL ACTION ON THE PART OF THE EAST FALLOWFIELD TOWNSHIP ZONING HEARING BOARD, AND I UNDERSTAND THAT ANY FALSE STATEMENTS MADE HEREIN ARE BEING MADE SUBJECT TO THE PENALTIES OF 18 PA. C.S. §4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

Date: 6-2-09


 (Signature of Applicant*)

(*If the application is being made by a person other than the property owner, attach a written authorization from the owner consenting to the application and designating you as his agent.)

Administration Use Only

Date Application Accepted 6/2/09 Total costs \$1,500.00

Date Advertised (two successive weeks no more than 30 days and no less than 7 days before hearing)

First Date

Second Date

Property Posting (at least one week before hearing) _____

Date of Hearing (within 60 days of application) _____

Date of Decision (within 45 days of last hearing) _____

Decision _____

Conditions of Approval _____

Chairman

Secretary

Member

ARTICLE 2200

ZONING HEARING BOARD

SECTION 2201 ESTABLISHMENT AND MEMBERSHIP

There shall be a Zoning Hearing Board in accordance with the provisions of Article IX of the Municipalities Planning Code, Act 247, as amended.

- A. The Zoning Hearing Board shall consist of three (3) members who shall be appointed by resolution of the Board and who shall be residents of the Township.
- B. The Zoning Hearing Board shall designate one (1) such member to serve until the first day of January following the effective date of this Ordinance, one (1) until the first day of the second January thereafter, and one (1) until the first day of the third January thereafter; shall appoint their successors on the expiration of their respective terms to serve three (3) years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant.
- C. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause by majority vote of the Board of Supervisors which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing will be held in connection with the vote if the member shall request it in writing.
- D. The members of the Zoning Hearing Board shall hold no other office in the Township.

SECTION 2202 ORGANIZATION

- A. The Zoning Hearing Board shall elect, from its members, its officers, who shall serve annual terms as such and may succeed themselves.
- B. For the conduct of any public hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Zoning Hearing Board, but the Zoning Hearing 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 Zoning Hearing Board, as provided in Section 2206 below.
- C. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure consistent with the provisions of this Ordinance and the laws of the Commonwealth.
- D. The Zoning Hearing Board shall keep full public record of its business, which records shall be property of the Township, and shall submit a report of its activities to the Board of Supervisors, as requested.

SECTION 2203 APPLICATIONS FOR HEARINGS

- A. Applications for hearings before the Zoning Hearing Board shall be filed with the Zoning Hearing Board or their Designee, together with the proper fee.
- B. An application for a special exception or variance from the terms of this Ordinance shall state:
 - 1. The name and address of the applicant.

2. An application for a special exception or variance from the terms of this Ordinance shall state:
 - a. A brief description and location of the real estate to be affected by such proposed change.
 - b. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
 - c. A statement of the section of this Ordinance under or from which the exception or variance requested may be authorized, and reasons why it should be granted.
 - d. A reasonably accurate description of the present improvements and the additions intended to be made under the application or appeal, if any, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached, a plot plan to scale of the real estate to be affected, indicating the location and size of the lot and size of improvements now erected and proposed to be erected thereon.
 - e. Any additional information as may be otherwise required by this Ordinance.
- C. Applications for other than special exception or variance from terms of this Ordinance shall contain sufficient written information to fully describe the intended use. Where, in the sole discretion of the Zoning Officer, it is appropriate for the applicant to furnish plans and/or specifications, or any other relevant information incident to intended use, such information shall be required to be submitted with the application.
- D. In the event that any required information is not furnished, the application shall be refused and the fee returned to the applicant.
- E. The hearing before the Zoning Hearing Board or Hearing Officer shall be held within sixty (60) days from the date of receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Zoning Hearing Board or Hearing Officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to in writing or on the record by the applicant. Any party aggrieved by the schedule or progress of the hearings may appeal to the Court of Common Pleas for judicial relief. The hearing shall be completed no later than one hundred (100) days after the completion of the applicant's case-in-chief, unless extended for good cause upon application to the Court of Common Pleas. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

SECTION 2204 NOTICE OF HEARINGS

The Zoning Hearing Board shall give notice as follows:

- A. By publishing a notice thereof in a newspaper of general circulation within the Township once a week for two (2) successive weeks, not less than seven (7), nor more than thirty (30) days prior to the hearing.
- B. By mailing notice thereof to the applicant and to any person who has made timely request for the same. In addition, said notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
- C. By mailing notice thereof to the Township Zoning Officer, to the Chairman of the Township Board of Supervisors and to the Chairman of the Township Planning Commission.
- D. The Zoning Hearing Board may mail notice thereof to the owner of every lot on the same street within five hundred (500) feet of the lot or building in question on every lot not on the same street within two hundred (200) feet of said lot building. But failure to give notice, either in part or in full, as stated by this paragraph, shall not invalidate any action taken by the Zoning Hearing Board.
- E. The notice herein required shall state the name of the applicant, the location of the lot or building and the general nature of the question involved, and the date, time and location of the hearing. In addition thereto, when a hearing is required under Section 2206, the notice shall state that the validity of the Ordinance or map is in question and shall note that copy of the landowner's request, including plans and proposed amendments may be examined by the public at the Township during regular business hours.

SECTION 2205 EXPENDITURES FOR SERVICES – FEES

- A. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors.
- B. The applicant before the Zoning Hearing Board shall deposit with the Treasurer of the Township, such a sum of money as set forth in the fee schedule adopted by resolution of the Board of Supervisors to pay for the cost of the hearing.
- C. The following administrative costs incurred by the Township relative to hearings before the Zoning Hearing Board shall be paid from the application filing fee:
 - 1. Cost of preparation of required notices.
 - 2. Cost of mailing notices, including postage.
 - 3. Cost of advertising.
 - 4. Cost of posting notice or verification.
 - 5. Duplication or copying costs.
 - 6. An equal share of the Court Reporter's attendance fee.

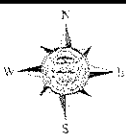
7. Cost of stenographic record, if such record is requested by the Zoning Hearing Board or the applicant.
 8. Other costs related to the application.
- D. Continued Hearings and Collection of Fees.
1. In the event more than one (1) hearing is necessary on any application, as promptly as may be possible following the initial hearing, the Zoning Hearing Board shall determine the total amount of all costs incurred, and shall deduct same from the application fee. In the event the application fee is, at any time, insufficient to cover the costs incurred or reasonably anticipated to be incurred, the Zoning Hearing Board shall notify the applicant, provide the applicant with a written copy of each item, and shall require the applicant to pay, within ten (10) days of such notification, any balance then due, together with a further minimum deposit of one-half (1/2) of the initial filing fee. In the event of multiple hearings, all costs shall be reported and collected in accordance with this procedure.
 2. The failure of the Zoning Hearing Board to demand additional deposits from time to time shall not relieve the applicant of liability for costs, charges, expenses and fees in excess of deposit; and in the event of default, such shall be recovered by such action as is by law provided.
 3. All funds deposited by the applicant in excess of the actual cost of the hearing or hearings shall be returned to the applicant upon completion of the proceeding.

SECTION 2206 HEARINGS

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Hearings of the Zoning Hearing Board shall be held at the call of the Chairman and at a reasonable time and place for public hearings and notification of said hearing shall be provided as set forth in Section 2204.
- B. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member or an independent attorney as the Hearing Officer. The decision, or, where no decision is called for, the findings, shall be made by the Zoning Hearing Board, however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing 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 Section 2204 without special request therefor, who has made timely appearance of record before the Zoning Hearing Board and any other person permitted to appear by the Zoning Hearing Board.
- D. The Chairman or Acting Chairman of the Zoning Hearing 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, to argue and to cross-examine adverse witnesses on all relevant issues.

- F. Formal rules of evidence shall not apply, but irrelevant, immaterial, unduly repetitious and hearsay evidence shall be excluded and other inadmissible evidence may be excluded at the discretion of the Zoning Hearing Board.
- G. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings 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 Zoning Hearing Board or the Zoning Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issued involved, except upon notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, 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 after the commencement of the hearing, unless all parties are given an opportunity to be present.
- I. The Zoning Hearing 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 after the last hearing before the Zoning Hearing Board or Hearing Officer.
1. Each decision shall be accompanied by findings and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Ordinance or of any act, rule or regulation, shall contain a reference to the provision relief was granted upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
 2. If the hearing is conducted by the Hearing Officer and there has been no stipulation that this decision or findings are final, the Zoning Hearing Board shall make its report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of its findings, and the decision of the Zoning Hearing Board shall be entered no later than thirty (30) days after the report of the Hearing Officer.
 3. Except for substantive challenges filed under Section 916.1 of the Municipalities Planning Code, where the Zoning Hearing Board fails to render a decision within the forty-five (45) day period required by this clause; fails to hold a hearing within sixty (60) days from the applicant's request, unless the applicant has agreed or shall agree in writing to an extension of time; or fails to complete the required hearing as provided in Section 2203.E, 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 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 decisions or findings and a statement of the place at which the full decision or findings may be examined.



Legend

- Ponds and Lakes
- Parcel 47-7-55, 10
- Parcel Boundaries

108 Cumberland Drive Coatesville, PA 19320



0 50 100 Feet

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Google

39°56'55.86" N

75°50'00.05" W

elev 151 m

Jun 8, 2004

Eye alt

275 m