

East Bradford Township Zoning Ordinance Update



Memorandum – October 25, 2022

To: Planning Commission
From: Chris Patriarca, AICP – Chester County Planning Commission

Handouts: Article XXI: Nonconformance Standards (1st Draft)
Article XXII: Zoning Hearing Board (1st Draft)
Article XXIII: Administration (1st Draft)

General Overview of Articles XX, XXI, and XXII

These three articles encompass nonconformities, the zoning hearing board, and administration. Much of the revisions to these articles incorporates language taken directly from the MPC. As these articles have been substantially reorganized and revised, in lieu of tracked changes, I have also included copies of the current articles for reference.

Article XX: Nonconformities (1st Draft)

This draft is based on the existing [Article XVIII Nonconformities](#). The revised and reorganized article incorporates existing content and new content and clarifications as necessary.

Article XXI: Zoning hearing board (1st Draft)

This draft is based on existing [Article XVI Zoning Hearing Board](#). The revised and reorganized article incorporates existing content, and incorporates new content and clarifications as necessary.

Article XXII: Administration (1st Draft)

This draft is based on existing [Article XIX Administration](#) and further incorporates [§115-77 Conditional uses](#). The revised and reorganized article incorporates existing content, and incorporates new content and clarifications as necessary.

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Article XX: Nonconformities

SECTION 115-2000. APPLICABILITY

This Article shall apply to existing uses, structure, buildings, lots, and signs that do not conform to provisions of this Chapter, but that were in lawful existence either as conforming or nonconforming prior to the effective date of this Chapter. Such shall be known and regarded hereon as “nonconforming”. It is the policy of East Bradford Township to seek the elimination of such nonconformities to the maximum extent practical while avoiding undue burdens on property owners and assuring equitable treatment.

Commented [PCR1]: New Section to introduce Article.

SECTION 115-2001. CONTINUATION

Any lawful lot; building or other structure; or use of a building, structure, lot, or sign legally existing at the time of adoption of this Chapter, or authorized by a permit issued prior thereto, may be continued in the form evident at the effective date of this Chapter, and on which actual building construction has been diligently carried on.

SECTION 115-2002. NONCONFORMING USE

- A. Use of land. Any lawful nonconforming use of land, exclusive of buildings and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Chapter, but such extension shall conform to area and bulk regulations and to the design standards of this Chapter. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Chapter.
- B. Extension or Enlargement.
1. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Chapter.
 2. Any lawful nonconforming use of land and/or a building and/or structure may be extended throughout the building and/or structure existing at the time the use was deemed nonconforming, provided that any existing nonconformity with respect to required setback or yards is not increased and all other applicable bulk, design, and other requirements of this Chapter for the applicable zoning district are satisfied.
- C. Change in Use. Once changed to a conforming use, within a structure or land, the use shall not be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use when authorized as a conditional use by the Board of Supervisors, subject to the following:
1. The proposed use shall be no more detrimental to adjacent properties and the neighborhood and surrounding area than the existing use it is to replace.
 2. In determining relative detriment, the Board of Supervisors shall take into consideration, among other things: traffic generated (including truck, car, and pedestrian traffic); nuisance characteristics (such as emission of noise, dust, fumes, vapors, gases, heat, glare, and smoke); fire hazards; safety; glare from new exterior lighting and hours and manner of operation.
 3. The applicant shall have the burden of proof that the application falls within the provisions of this Article and that the granting of the application will not be contrary to the public interest. It shall also be the applicant’s burden to produce evidence in support of the application which will assist the Board of Supervisors in applying the criteria set forth in § 115-22xx.

Commented [PCR2]: For a nonconforming use, how much expansion of the use should be permitted?

Commented [AC3]: If we are updating the entire chapter with a new effective date of say 01/01/2024, how does that affect existing nonconformities - I'm assuming they just continue but perhaps this is worth a brief discussion at the meeting next week.

Commented [PCR4R3]: That is a correct summary of how that would work. Hopefully through the update we will be able to bring some of the existing nonconformities into conformance and reduce the overall number that exist.

D. Discontinuance or Abandonment. Whenever a nonconforming use has been intentionally discontinued for a continuous period of six (6) consecutive months, such nonconforming use shall be deemed to have been discontinued and shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Chapter.

SECTION 115-2003. NONCONFORMING BUILDINGS, STRUCTURES, AND SIGNS

A. Alteration or Expansion. Any lawful nonconforming building or structure may be altered, renovated, or expanded, provided that such alteration, renovation, or expansion does not increase the nonconformity of the building or structure with respect to the setback, lot coverage, density, and other applicable requirements of the district where it is located, this Chapter, and the Township Code, provided that:

1. Such alteration or expansion shall conform to the area and bulk requirements and design standards of this Chapter.
2. A nonconforming building or structure shall not be expanded to displace a conforming building or structure.
3. The volume, floor area, or extent of the nonconforming building or structure devoted to such expansion shall not be increased by more than twenty-five (25) percent of the volume, area, or extent so used on a lot or floor area within a building or structure as it existed on the date when the structure became nonconforming.
4. When a building or structure is deemed nonconforming due to encroachment into a required setback, any alteration or expansion shall not encroach into any required setback further than the extent of the encroachment at the building line.

B. Restoration. Any lawful nonconforming building or structure which has been involuntarily damaged or destroyed by fire, explosion, flood, wind, or similar cause, to an extent of not more than seventy-five (75) percent of its fair market value, may be reconstructed within the limits of the existing foundation and within its original dimensions provided that:

1. The reconstructed building or structure shall not exceed the height, area, or volume of the original building except as provided in §115-2002(A).
2. Reconstruction shall commence within one (1) year (or definitive action shall be taken toward reconstruction) from the date of damage or destruction and shall be completed without interruption from the date reconstruction commenced.

Commented [PCR5]: Does the Township desire to keep this or just allow for reconstruction of the nonconformity regardless of 75% of fair market value.

C. Voluntary Demolition. Where a nonconforming building or structure is voluntarily demolished or destroyed, except for its reconstruction per Subsection B and/or its repair, rehabilitation, or modernization, the nonconforming building or structure, shall be deemed to have been discontinued, and any building or structure thereafter shall be conforming with the provisions of this Chapter.

D. Signs. Any sign, signboard, billboard, or advertising device legally existing at the time of the passage of this Chapter that does not conform to the regulations of the district in which it is located shall be considered a nonconforming sign and may be used in its existing location, provided that it is maintained in good condition and repair at all times. In addition to the requirements of this Article and Article XVIII - Signs,

Commented [PCR6]: Is one year to start reconstruction reasonable?

nonconforming signs shall be subject to the following:

1. Maintenance. Nonconforming signs may be painted, repaired (including lighting) and altered in their working (mechanical or electrical components), including the change from one (1) business name or logo to another, provided that such modifications do not exceed the dimensions of the existing signs.
2. Alteration or Replacement. No nonconforming sign shall be physically enlarged, altered beyond that permitted in **Subsection 1** above, relocated, or replaced. Nonconforming signs, once removed, may be replaced only by conforming signs.

SECTION 115-2004. NONCONFORMING LOTS

- A. Except for lots meeting the criteria set forth in **§115-2004(D)**, a building may be erected or altered on any lot held, at the effective date of this Chapter, in single and separate ownership which is not of the required minimum, area, width, or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such lot is situated, provided that a special exception is authorized by the Zoning Hearing Board, and provided further that the applicant does not own or control other adjoining property sufficient to enable compliance with the provisions of this Chapter, as amended. In considering a special exception to permit erection or alteration of a building on a nonconforming lot, the Zoning Hearing Board may impose the following requirements:
 1. The proposed use is permitted under the district.
 2. Where the contiguous net lot area requirement applies, and cannot be met, the granting of a building permit shall be conditioned upon demonstration of adequate sewage disposal to the Zoning Officer and the Chester County Health Department.
 3. The building or structure complies with all applicable district provisions; if any applicable setback and/or coverage requirement cannot be met, a variance must be obtained from the Zoning Hearing Board.
- B. Contiguous nonconforming lots under common ownership shall be considered one (1) lot, unless there is a manifest intent by the owner to maintain such lots as separate lots.
- C. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.
- D. In any district in which single-family dwellings are permitted, notwithstanding the area limitation imposed by other provisions of this Chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record in existence at the effective date of adoption or amendment of this Chapter without Zoning Hearing Board action, provided that all applicable bulk, setback, yard, design standards and other requirements of the Zoning Ordinance for the district are satisfied; that such lot must be held, in single and separate ownership on March 21, 1988, and that adequate on- or off-site sewage disposal and water supply facilities are available for the use intended.
- E. In addition to the provisions of **§115-2004D** above, in the R-1 or R-2 District on any single lot of record held in single and separate ownership on March 21, 1988, which does not meet the required minimum area requirements for the district in which it is located, a single-family detached dwelling may be constructed without obtaining a special exception from the Zoning Hearing Board pursuant to **§115-2004A**, provided

Commented [PCR7]: Consideration could be given to streamlining this section to something as follows: "A lot that is nonconforming due to lack of area may be developed, provided the development proposed on the lot is in accordance with the applicable use and lot and bulk standards contained in the underlying district regulations."

that any and all applicable bulk, setback, yard, design standards and other requirements of the Zoning Ordinance for the district are satisfied.

SECTION 115-2005. NONCONFORMING ADDITIONAL EXCEPTIONS

- A. As to impervious cover only, notwithstanding the requirements of §115-2003(A) above, a single-family detached dwelling located in the R-1 or R-2 District on any single lot of record in existence on or before March 21, 1988, which dwelling exceeds the impervious coverage requirements for the district in which it is located, shall be permitted to surpass the impervious coverage requirement in the district in which it is located by no more than fifteen (15) percent of the existing impervious cover or fifteen (15) percent of the maximum impervious cover permitted on the lot in the district in which it is located, whichever is greater. The amount surpassed may be applied to either building coverage or impervious coverage provided that in no case shall impervious cover exceed thirty-five (35) percent of the gross lot area. ~~Any modification, alteration, repair, reconstruction, or improvement of any kind to an extent or amount of fifty (50) percent or more of its impervious cover shall be undertaken only in full compliance with the impervious coverage standards for the district in which it is located.~~
- B. Notwithstanding the requirements of §115-2003(A) above, a single-family detached dwelling that was developed and constructed in accordance with the Cluster Ordinance that was in existence between March 14, 1989 (Ordinance No. 107 of 1989, amended by Ordinance No. 128 of 1991), and April 9, 1996 (Ordinance No. 2 of 1996), which dwelling does not meet the area and bulk requirements for the district in which it is located, shall be permitted to exceed the district requirements, provided that the area and bulk requirements of the Cluster Ordinance shall be met.
- C. Uses and/or structures rendered nonconforming by the adoption of the Steep Slope Conservation District. Following the adoption of §115-43, any use or structure which is situated within the boundaries of the Steep Slope Conservation District, and which does not conform to the permitted uses specified in §115-43D shall become a nonconforming use or structure, regardless of its conformance to the base zoning district in which it is located without consideration of this Section. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Article XVI of this Chapter. However, the Zoning Hearing Board shall also ensure that the standards contained in §115-43E(2) above are applied to the expansion or continuance of said nonconforming use or structure.
- D. A nonconforming agricultural operation may be changed from one type of agricultural operation to another or expanded up to twenty-five (25) percent provided that the land used for the nonconforming agricultural operation and the surrounding land has been used for the same agricultural operation for the past five years, and provided that, by grant of special exception, the Zoning Hearing Board determines that the expanded agricultural operation will not have a direct adverse effect on the public health and safety.

SECTION 115-2006. INVENTORY OF NONCONFORMITIES

- A. An inventory of nonconforming structures and uses, taken as of the date of adoption of this Chapter, shall be kept on file in the official files of the Township.

ARTICLE XVIII
Nonconformities
[Amended 3-21-1988 by Ord. No. 97-1988]

§ 115-96. Nonconforming buildings, structures and uses.

- A. Continuation. Any lawful nonconforming structure or any lawful nonconforming use of a structure or land legally existing on the effective date of this chapter may be continued, except as otherwise herein provided.
- B. Extension and additional buildings and/or structures. Any lawful nonconforming use of a portion of a building and/or structure may be extended throughout the building and/or structure, provided that any existing nonconformity with respect to required setback or yards is not increased and all other applicable bulk, design and other requirements of this Chapter 115, Zoning, for the applicable zoning district are satisfied. Subject to the requirement that any existing nonconformity with respect to required setback or yards is not increased and all other applicable bulk, design and other requirements of the Zoning Ordinance for the district are satisfied, the area of such building(s) and/or structure(s) shall not be increased by more than 25% of the area of such building(s) and/or structure(s) existing on the date it first became a nonconforming building and/or structure or a building and/or structure of which lawful nonconforming use is made. Any structural alteration, extension or addition to existing buildings and/or structures shall conform to all area, height, width, yard and coverage requirements for the district in which it is located. **[Amended 2-13-1990 by Ord. No. 117-1990; 8-10-2004 by Ord. No. 4-2004; 11-8-2005 by Ord. No. 9-2005]**
- C. Exceptions. **[Added 2-13-1990 by Ord. No. 117-1990¹; amended 11-8-2005 by Ord. No. 9-2005; 9-9-2008 by Ord. No. 2-2008]**
 - (1) As to impervious cover only, notwithstanding the requirements of § 115-96B above, a single-family detached dwelling located in the R-1 or R-2 District on any single lot of record in existence on March 21, 1988, which dwelling does not meet the impervious coverage requirements for the district in which it is located, shall be permitted to surpass the impervious coverage requirement in the district in which it is located by no more than 15% of the existing cover or 15% of the maximum otherwise applicable in the district in which it is located, whichever is greater. The amount surpassed may be applied to either building coverage or impervious coverage, provided that in no case shall impervious cover exceed 35%. Any modification, alteration, repair, reconstruction or improvement of any kind to an extent or amount of 50% or more of its impervious cover shall be undertaken only in full compliance with the impervious coverage standards for the district in which it is located.
 - (2) Notwithstanding the requirements of § 115-96B above, a single-family detached dwelling that was developed and constructed in accordance with the Cluster Ordinance that was in existence between March 14, 1989 (Ordinance No. 107 of 1989, amended by Ordinance No. 128 of 1991), and April 9, 1996 (Ordinance No. 2 of 1996), which dwelling does not meet the area and bulk requirements for the district in which it is located, shall be permitted to exceed

1. Editor's Note: This ordinance also provided for the renumbering of former Subsections C through H as Subsections D through I.

the district requirements, provided that the area and bulk requirements of the Cluster Ordinance shall be met. **[Amended 8-10-2010 by Ord. No. 2-2010; 9-13-2011 by Ord. No. 3-2011]**

- D. Use of land. Any lawful nonconforming use of land, exclusive of buildings and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this chapter, but such extension shall conform to area and bulk regulations and to the design standards of this chapter. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this chapter.
- E. Change. Any lawful nonconforming use of a building or land may be changed to another nonconforming use of substantially the same character and for such purpose a building may be extended on the same lot in accordance with Subsection B of this section by grant of conditional use by the Board of Supervisors after holding a public hearing to consider the proposed change provided that the proposed new use will be similar to or less detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Board of Supervisors shall take into consideration, among other things, traffic generated, nuisance characteristics (such as emission of noise, dust, glare and smoke), fire hazards and hours and manner of operation. Whenever the nonconforming use of a building or land has been changed to a conforming use, such conforming use shall not thereafter be changed to a nonconforming use. **[Amended 11-10-2020 by Ord. No. 05-2020]**
- F. Restoration. Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm or other similar active cause, to an extent of not more than 75% of its fair market value, may be reconstructed in the same location, provided that:
- (1) The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed building or structure.
 - (2) Reconstruction shall begin within one year from the date of damage or destruction and shall be carried on without interruption.
- G. Abandonment. If a lawful nonconforming use of land or of a building or other structure is abandoned or discontinued for a continuous period of six months or more, subsequent use of such building or structure or land shall be in conformity with the provisions of this chapter.
- H. Nonconforming signs. Any sign, signboard, billboard or advertising device legally existing at the time of the passage of this chapter that does not conform to the regulations of the district in which it is located shall be considered a nonconforming sign and may be used in its existing location, provided that it is maintained in good condition and repair at all times. Nonconforming signs once removed may be replaced only with conforming signs; however, legal nonconforming signs may be repainted or repaired, provided that such repaired or repainted sign does not exceed the dimensions of the existing sign. **[Amended 9-13-2011 by Ord. No. 3-2011]**

- I. Uses and/or structures rendered nonconforming by the adoption of the Steep Slope Conservation District. Following the adoption of § 115-43, any use or structure which is situated within the boundaries of the Steep Slope Conservation District and which does not conform to the permitted uses specified in § 115-43D shall become a nonconforming use or structure, regardless of its conformance to the base zoning district in which it is located without consideration of this section. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Article XVI of this chapter. However, the Zoning Hearing Board shall also ensure that the standards contained in § 115-43E(2) above are applied to the expansion or continuance of said nonconforming use or structure.
- J. A nonconforming agricultural operation may be changed from one type of agricultural operation to another or expanded up to 25% provided that the land used for the nonconforming agricultural operation and the surrounding land has been used for the same agricultural operation for the past five years, and provided that, by grant of Special Exception, the Zoning Hearing Board determines that the expanded agricultural operation will not have a direct adverse affect on the public health and safety. **[Added 1-11-2005 by Ord. No. 1-2005]**

§ 115-97. Nonconforming lots or lots of unusual dimensions.

- A. Except for lots improved with single-family detached dwellings, which lots meet the criteria set forth in § 115-97B and C, where applicable, a building may be erected or altered on any lot held, at the effective date of this chapter, in single and separate ownership which is not of the required minimum area or width or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such lot is situated, provided that a special exception is authorized by the Zoning Hearing Board, and provided further that the applicant does not own or control other adjoining property sufficient to enable him to comply with the provisions of this chapter, as amended. In considering a special exception to permit erection or alteration of a building on a lot nonconforming as to area and width regulations, the Zoning Hearing Board may impose the following requirements: **[Amended 2-13-1990 by Ord. No. 117-1990]**
 - (1) That the use of the lot may be required to conform to the permitted uses in the district in which such lot lies.
 - (2) That the building height may be restricted to that specified for other buildings within the district in which the lot lies.
 - (3) That the design standards imposed for uses within the district in which the lot lies may be applied to the use of the lot.
 - (4) That adequate on-site or off-site sewage disposal and water supply facilities are available for the use intended.
 - (5) Such conditions as are necessary to assure that the general purpose and intent of the Zoning Ordinance are complied with.

- B. In any district in which single-family dwellings are permitted, notwithstanding the area limitation imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record in existence at the effective date of adoption or amendment of this chapter without Zoning Hearing Board action, provided that such lot must be held, in single and separate ownership on March 21, 1988, and that adequate on- or off-site sewage disposal and water supply facilities are available for the use intended. **[Amended 4-14-2009 by Ord. No. 2-2009]**
- C. In addition to the provisions of § 115-97B above, in the R-1 or R-2 District on any single lot of record held in single and separate ownership on March 21, 1988, which does not meet the required minimum area requirements for the district in which it is located, a single-family detached dwelling may be constructed without obtaining a special exception from the Zoning Hearing Board pursuant to § 115-97A, provided that any and all applicable bulk, setback, yard, design standards and other requirements of the Zoning Ordinance for the district are satisfied. **[Added 2-13-1990 by Ord. No. 117-1990; amended 4-14-2009 by Ord. No. 2-2009]**

§ 115-98. Inventory of nonconforming uses.

An inventory of nonconforming structures and uses, taken as of the date of adoption of this chapter, shall be kept on file in the official files of the Township.

§ 115-99. (Reserved)

§ 115-100. (Reserved)

§ 115-101. (Reserved)

§ 115-102. (Reserved)

§ 115-103. (Reserved)

Article XXII: Zoning Hearing Board

Commented [PCR1]: Existing § 115-86.1 for Temporary Structures will be revisited as part of the forthcoming "General Standards" Article and removed from this one.

SECTION 115-2200. PURPOSE AND JURISDICTION

The purpose of this Article is to provide standards for the functions and procedures of the Zoning Hearing Board, pursuant to Section 909.1 of the Pennsylvania Municipalities Planning Code. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final decisions in the following matters:

- A. **Variances.** Applications for variances under this Chapter, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code.
- B. **Special Exceptions.** Applications for special exceptions under this Chapter, pursuant to Section 912.1 of the Pennsylvania Municipalities Planning Code.
- C. **Appeals from Zoning Officer Decisions.** Appeals from determination of the Zoning Officer (or Township Engineer when applicable), 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 registration or refusal to register any nonconforming use, structure, or lot.
- D. **Appeals from Preliminary Opinion of Zoning Officer.** Appeals from Code Enforcement (or Township Engineer when applicable) determinations pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code.
- E. **Substantive Challenges.** Substantive challenges to the validity of this Chapter or the Zoning Map, except landowner curative amendments brought before the Board of Supervisors, pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
- F. **Validity or Procedural Challenges.** Challenges to the validity of this Chapter or the Zoning Map raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said items in question.
- G. **Reasonable Accommodations.** The Zoning Hearing Board may grant a variance to specific section(s) of this Chapter if the applicant proves to the clear satisfaction of the Zoning Hearing Board that such modifications are necessary to provide a reasonable accommodation under the Americans With Disabilities Act, 42 U.S.C section 12101 et seq., and/or the Federal Fair Housing Act and/or applicable state and federal law, as amended, to serve persons who the applicant proves have disabilities as defined in and protected by such laws.

Commented [PCR2]: New section derived from the MPC enabling legislation for ZHBs

SECTION 115-2201. MEMBERSHIP, ORGANIZATION, AND EXPENDITURES

- A. **Membership.**
 1. **Members.** Membership of the Zoning Hearing Board shall consist of three (3) residents of the Township, appointed by resolution of the Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code. Each term of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year.
 2. **Vacancies.** The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancy that occurs. Appointments to fill vacancies shall be for the duration of the unexpired portion of the term.

3. **Alternate Members.** The Board of Supervisors may, by resolution, appoint alternate members to the Zoning Hearing Board. The term for an alternate member shall be three (3) years. An 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 be compensated as a member as provided in this Section, unless seated as a member in accordance with the provisions of this Section.
4. **Limitation of Responsibilities.** Members and alternate members of the Zoning Hearing Board shall hold no other office in the Township, except that no more than one (1) member of the Zoning Hearing Board may also be a citizen member of the Planning Commission.
5. **Removal of Members.** Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors. No vote shall occur until the member has received a fifteen (15) day 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.

B. Organization.

1. **Conduct and Officers.** The Zoning Hearing 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 not be less than a majority of all the members of the Zoning Hearing Board. 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 908 of the Pennsylvania Municipalities Planning Code.
2. **Procedure.** The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with the Pennsylvania Municipalities Planning Code, this Chapter, other applicable Township ordinances, and laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors annually or as requested by the Board of Supervisors.
3. **Designation of Alternate Members.** The Chair of the Zoning Hearing Board shall designate alternate members of the Zoning Hearing Board to replace any absent or disqualified members and if, by reason of absence or disqualification of a member, a quorum is not reached, the Chair shall designate the alternate member to sit on the Zoning Hearing Board. The alternate member shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate member was initially appointed, until the Zoning Hearing Board has made a final determination of the matter or case.
4. **Rules of Procedure.** The Zoning Hearing Board may adopt rules of procedure in accordance with the provisions of this Chapter as to the manner of filing appeals, applications for variances or special exceptions, and as to the conduct of the business of the Zoning Hearing Board. In all cases the rules of procedure shall be consistent with Article IX of the Pennsylvania Municipalities Planning Code.

C. Expenditures and Fees.

1. **Expenditures,** Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for legal counsel (which shall be an attorney other than the Township Solicitor), consultants, and other technical and clerical services. Members of the Zoning Hearing Board,

including the alternate member when designated in accordance with this Section, may receive compensation for the performance of their duties, as may be established by resolution of the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

2. Fees. An applicant before the Zoning Hearing Board shall deposit with the Township the appropriate filing fee. Fees shall be established by resolution of the Board of Supervisors from time to time. No application shall be considered complete, and no hearing shall be scheduled without payment of the required fee.

SECTION 115-2202. HEARINGS

The Zoning Hearing Board shall conduct hearings in accordance with the following provisions pursuant to Section 908 of the Pennsylvania Municipalities Planning Code.

A. Applications. Requests for hearings before the Zoning Hearing Board shall be as follows:

1. Appeals under §115-2200 of this Article may be filed with the Zoning Hearing Board, in writing, by the landowner affected, any officer or agency of the Township, or any person aggrieved.
2. Requests for a variance or special exception may be filed with the Zoning Hearing Board by any landowner.
3. Applications shall be made in writing on forms furnished by the Township and shall include information necessary to enable the Zoning Officer to ascertain compliance with this Chapter and other applicable ordinances. All applications shall include:
 - a. The name and address of the applicant, or appellant;
 - b. The name and address of the owner of the property to be affected by such proposed change or appeal;
 - c. A brief description and location of the property to be affected by such proposed change or appeal;
 - d. A statement of the present zoning classification of the property in question, the improvements thereon and the present use thereof;
 - e. A statement of the Section of this Chapter under which the appeal is made and reasons why it should be granted, or a statement of the Section of this Chapter governing the situation in which the alleged erroneous ruling is being appealed and the reasons for this appeal; and
 - f. A reasonably accurate description of the additions or changes intended to be made under this application, indicating the size, material, and general construction of such proposed improvements. A surveyed plan of the property to be affected, indicating the location and size of the lot and the size of existing and intended improvements, shall be attached to the description.
 - g. Payment of all applicable fees as required per §115-2201(C)(2) at the time of submission.

Commented [PCR3]: This Section consolidates current §115-78, §115-79, and §115-80 into a single Section. The original sections were reorganized and expanded as necessary with MPC language for clarity and greater ease of use.

Commented [PCR4]: This Section is a reorganization of §115-81 and expansion as needed with language directly from the MPC.

4. In the event that any required information is not furnished, the application shall be considered incomplete, and notice of application refusal should be given to the applicant.

Commented [PCR5]: The current ordinance does not include requirements for ZHB applications. This Section provides for minimal requirements to make applications more uniform and consistent.

B. Notice. Upon receiving the filing of a request for a hearing, the Zoning Hearing Board shall fix a reasonable time and place for a public hearing and shall give public notice as defined in **Article II** and consistent with the public notice requirements of the Pennsylvania Municipalities Planning Code. Notice shall be provided as follows:

1. The Zoning Hearing Board shall:

- a. Publish a public notice thereof once a week for two (2) successive weeks, the first not more than thirty (30) days and the second not less than seven (7) days from the date of the hearing in a newspaper of general circulation.
- b. Provide, by certified mail, a written notice to the applicant at least fourteen (14) days before the date fixed for the hearing.
- c. By providing a notice thereof to the Zoning Officer, the Township Manager, and the Board of Supervisors.

2. The applicant shall:

- a. Post notice of said hearing in a conspicuous location on the affected tract of land at least one (1) week prior to the hearing.
- b. By mail or deliver a notice thereof to all persons registered with the Township to receive notice and the owner of every lot within five-hundred (500) feet from any lot line in question not less than ten (10) days prior to the date of the hearing. The name and address of the persons to whom the notice shall be given shall be those listed on the tax record. The applicant shall show proof at the hearing that all property owners were notified.

3. The notice herein shall be a copy of the advertisement submitted for publication. Failure to give notice as required by this Section shall not invalidate any action taken by the Zoning Hearing Board.

C. Timing.

- 1. The first hearing before the Zoning Hearing Board or hearing officer shall commence within sixty (60) days from the date of receipt of the applicant's complete application 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 first hearing unless otherwise agreed to by the applicant in writing or on the record. 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.
- 2. 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, and the applicant may, upon request, be granted additional hearings to complete their 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.

3. All hearings must be completed no later than one hundred (100) days after the completion of the applicant's case. Any aggrieved party may apply to the Court of Common Pleas for a time extension for good cause. If the Zoning Hearing Board fails to complete a hearing within this time period, the application shall be deemed approved.
 4. The Zoning Hearing Board shall conduct the hearings or may appoint any member or an independent attorney as a 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 Board and accept the decision or findings of the hearing officer as final.
- D. Parties to the Hearing. Parties to the hearing shall be the Township, the applicant, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person entitled to notice under this Subsection 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.
- E. Powers of the Chair. The Chair or Acting Chair 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.
- F. Rights of the Parties. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond, to present evidence, and to argue and cross-examine adverse witnesses on all relevant issues.
- G. Exclusion of Evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. Record of Proceedings: The Zoning Hearing Board or the hearing officer, as the case may be, 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 hearing officer 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.
- I. Communications. Members of the Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or their 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, 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 after the

commencement of hearings with any party or their representative unless all parties are given an opportunity to be present.

- J. Burden of Proof and Conditions. To the maximum extent permitted by law, all burdens of proof and persuasion shall be upon the landowner in connection with any variance, special exception, or application or appeal before the Zoning Hearing Board. In allowing a variance or special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Chapter.

SECTION 115-2203. HEARING DECISIONS

The Zoning Hearing Board shall make decisions in accordance with the following provisions, pursuant to Section 908 of the Pennsylvania Municipalities Planning Code.

- A. The Zoning Hearing Board or 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, unless the applicant has agreed in writing to an extension of time.
 - 1. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Chapter, the Pennsylvania Municipalities 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 light of the facts found.
 - 2. If the hearing is conducted by a hearing officer, and there has been no stipulation that the decision or findings are final, the Zoning Hearing Board shall make their 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 Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.
 - 3. Except for challenges filed pursuant to Section 916.1 of the Pennsylvania Municipalities Planning Code, where the Zoning Hearing Board fails to render the decision within the period required by this Section, or fails to commence, conduct, or complete the required 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 hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in 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.
- B. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or sent by mail not later than the day following the date of its decision.

Commented [PCR6]: This Section is a reorganization of [§115-81\(I\) & \(J\)](#) and expansion as needed with language directly from the MPC.

- C. The Zoning Hearing Board shall provide by mail or otherwise a brief notice of the decision or findings and a statement of the place where the full decision may be examined 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.

SECTION 115-2204. VARIANCES

The Zoning Hearing Board shall hear and decide on requests for variances in accordance with this Article, where it is alleged that a provision(s) of this Chapter inflicts unnecessary hardship on the applicant.

- A. An applicant shall file an application for a variance per **§ 115-2202.A.**
- B. In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter. The Board shall require that adequate on-site or off-site water and sewage disposal facilities are available for the use intended.
- C. Financial gain shall not be a basis for granting a variance and the proposed use shall comply with all other applicable requirements of this Chapter.
- D. The Zoning Hearing Board may grant a variance to provision(s) of this Chapter, provided all of the following standards are satisfied where relevant in a given case based on the Pennsylvania Municipalities Planning Code Section 910.2:
 - 1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or 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 this Chapter in the neighborhood or district in which the property is located.
 - 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 this Chapter 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.
 - 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 adjacent property, nor 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.
- E. If the Zoning Hearing Board grants the variance request, such approval shall accompany any application for subdivision of land or land development or permit(s) sought.
- F. Applications for uses described in **§95-13E(2)** of the Code shall submit a Transportation Impact Analysis in accordance with **§95-13E.**

SECTION 115-2205. SPECIAL EXCEPTIONS

This Section provides for consideration of certain uses and modifications to be permitted within the Township as special exceptions. Such have the potential for greater impact and may not be appropriate at every location within a zoning district, and accordingly as permitted by the Pennsylvania Municipalities Planning Code, this Section establishes criteria by which to evaluate applications for special exceptions. All applications are considered on its own merits, separately, based on pertinent information presented at the hearing and without regard to any previous case.

Commented [PCR7]: This Section expands on the standards currently listed as part of §115-86. Standards listed in this section for "community living arrangement" under §115-86(A) and will be revisited as a Supplemental Use.

A. An applicant shall file an application for a special exception per §115-2202.A. The Zoning Hearing Board shall hear and decide all such requests for special exceptions uses identified in this Chapter, in accordance with this Article and all of the following standards.

1. Consideration of the size, scope, extent, and character of the special exception and assurance that such is consistent with the community goals and objectives of the Comprehensive Plan of the Township and promotes the orderly development of the zoning district involved.
2. Consideration of the proposed special exception is an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property or of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent, and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which applicant seeks approval.
3. Consideration of the proposed special exception is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard. Access points on major streets and highways should be limited and access encouraged from the frontage of buildings on parallel marginal roads or on roads perpendicular to the highway.
4. Consideration of the proposed special exception is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and ensures adequate arrangements for the extension of such services and facilities in specific instances.
5. Consideration to the extent that conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to the design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.
6. Consideration that the proposed special exception does not materially and adversely affect the safety, health, and general welfare of the Township.

- B. It shall be the responsibility of the applicant requesting approval of the special exception to present such evidence as is necessary to demonstrate that the proposed use or modification complies with standards set forth in this Section and that it is not otherwise contrary to public health, safety, and welfare.
- C. If the Zoning Hearing Board grants the special exception request, such approval shall accompany any application for subdivision of land or land development or permit(s) sought.
- D. Applications for uses described in §95-13E(2) of the Code shall submit a Transportation Impact Analysis in accordance with §95-13E.

SECTION 115-2206. DUTY TO HEAR APPEALS.

- A. The Zoning Hearing 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 provisions of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.
- B. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- C. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board or any court in a subsequent appeal rules in the appealing party's favor.

SECTION 115-2207. CHALLENGES TO VALIDITY OF ZONING PROVISIONS.

- A. Except as provided in §115-2204 relating to variances, the Zoning Hearing Board shall have no power to pass upon the validity of any provision of this Chapter or the Zoning Map. 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 Zoning Hearing Board and to facilitate speedy disposition of such challenges by a court, the Zoning Hearing Board may hear all challenges wherein the validity of this Chapter or the Zoning Map presents any issue of fact or of interpretation not hitherto properly determined at a hearing before another competent agency or body shall take evidence and make a record thereon as provided in §115-2202. At the conclusion of the hearing, the Zoning Hearing 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.
- B. In considering and making a decision on a request for curative amendment submitted by a landowner pursuant to Article VI of the Pennsylvania Municipalities Planning Code, the Zoning Hearing Board shall consider, in addition to the general health, safety, and welfare of the public and all other matters appropriate to the decision, those factors set forth in Article VI of the Act.

SECTION 115-2208. CHALLENGES TO VALIDITY OF SUBDIVISION OR PLANNED RESIDENTIAL DEVELOPMENT PROVISIONS.

Challenges to the validity of the East Bradford Township Subdivision Regulations or to the validity of the planned residential development provisions of this Chapter and appeals from any action of the Zoning Officer thereunder shall be governed by §§115-2206 and 115-2207 but when the Board of Supervisors has held a hearing upon an application for development under the Subdivision Regulations or the planned residential development provisions

of this chapter, such hearing shall be deemed in lieu of a hearing by the Board provided for under §115-2207, and appeal from any decision or determination of the Board of Supervisors, including challenge to the validity of any provision of such ordinance, shall lie directly to the court.

SECTION 115-2209. TIME LIMITATION FOR APPEALS

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate Township officer, agency, or body if such processing is designed to secure reversal or limit approval in any manner unless such person alleges and proves that they had no notice, knowledge, or reason to believe that such approval had been given. If such person has gained their interest after such approval, they shall be bound by the knowledge of their predecessor in interest.
- B. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to the Pennsylvania Municipalities Planning Code or from any adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.
- C. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.
- D. Notice of determination in accordance with §115-2206.C and approval by an appropriate Township officer, agency, or body in §115-2006.A shall mean the same date for purposes of administration of this Section.

SECTION 115-2210. EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES

- A. Any approval of a special exception or variance request shall be deemed null and void twelve (12) months from the date of such approval if, within that period, no application is made for a building permit, use and occupancy permit, subdivision or land development approval, or any other approval or permit required by the Township to proceed with construction, occupancy, or use pursuant to the special exception or variance, unless so extended by the Zoning Hearing Board pursuant to §115-2210.B.
- B. It shall be the responsibility of the party seeking to obtain the aforementioned permits and/or approvals to request an extension of the twelve (12) month expiration period in writing with the Township a minimum of thirty (30) days in advance of the expiration date of the approved special exception or variance. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in either the circumstances giving rise to the grant of relief or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension.

Commented [PCR8]: New section proposed to give the Township the ability to better control ZHB approvals that are not acted upon in a reasonable time period.

SECTION 115-2211. STAY OF PROCEEDINGS

Upon filing of any proceeding referred to in §115-2200, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, Zoning Hearing Board order, or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property. In such case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or

by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body procedures shall be in accordance with the Pennsylvania Municipalities Planning Code Section 915.1.

SECTION 115-2212. APPEALS TO COURT

Appeals from decisions of the Zoning Hearing Board may be taken by any party aggrieved to the Chester County Court of Common Pleas in accordance with the Pennsylvania Municipalities Planning Code Article X-A.

ARTICLE XVI

Zoning Hearing Board

**[Amended 7-8-1980 by Ord. No. 39-1980; 8-9-1983 by Ord. No. 54-1983; 1-3-1984
by Ord. No. 70-1984; 3-21-1988 by Ord. No. 97-1988]**

§ 115-78. Establishment and membership.

- A. There shall be a Zoning Hearing Board, which shall consist of three members who shall be appointed by resolution of the Board of Supervisors. The membership of the Zoning Hearing Board shall consist of residents of the Township. 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 Zoning Hearing Board shall promptly notify the Board of Supervisors 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 Township, except that no more than one member of the Zoning Hearing Board may also be a citizen member of the Planning Commission. Any member of the Zoning Hearing Board 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 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. **[Amended 8-14-1990 by Ord. No. 120-1990]**
- B. When used hereafter in this article, the word "Board" shall mean the Zoning Hearing Board.

§ 115-79. Organization.

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 not be 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 § 115-81. The Board may make, alter and rescind rules and forms for its procedures, 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 a year.

§ 115-80. Expenditures; fees.

- A. Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties as may be fixed by the Board of Supervisors.
- B. The applicant before the Board shall pay to the Treasurer of the Township a fee, in an amount as established by the Board of Supervisors, for purposes as prescribed in Section 908(1.1) of the Act.¹ No application shall be considered complete and no hearing shall be scheduled without payment of the required fee. **[Amended 8-14-1990 by Ord. No. 120-1990]**

1. Editor's Note: See 53 P.S. § 10908(1.1).

§ 115-81. Hearings.

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

- A. Upon filing a request for a hearing, notice shall be provided as follows: **[Amended 8-14-1990 by Ord. No. 120-1990; 12-13-2006 by Ord. No. 8-2006; 9-13-2011 by Ord. No. 3-2011; 2-12-2019 by Ord. No. 01-2019; 5-19-2019 by Ord. No. 02-2019]**
- (1) The Board shall:
 - (a) Fix a reasonable time and place for a public hearing.
 - (b) Give public notice thereof, as defined in § 115-6 of this chapter. The notice herein required shall state the location of the lot or building and the general nature of the question involved.
 - (c) Provide, by certified mail, a written notice of the public meeting to the applicant at least 14 days before the date fixed for the hearing.
 - (d) Forward a written notice of the hearing to the Zoning Officer, the Township Secretary, and the Board of Supervisors.
 - (2) The applicant shall:
 - (a) Post the written notice of said hearing in a conspicuous location on the affected tract of land, at least one week prior to the hearing.
 - (b) Notify all persons registered with the Township to receive notice under § 115-119.1A and all owners of land within 500 feet of the property of the application pursuant to the criteria set forth in § 115-119.1. The applicant shall show proof at the hearing that all property owners were notified.
- 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 Subsection A of this section without special request therefor 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 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. A stenographic record of the proceedings shall be made by a court reporter. The appearance fee for the court reporter shall be shared equally by the applicant and the Board. Any party requesting the original transcript or a copy of the transcript shall bear the cost of the same. Copies of graphic or written material received in evidence shall be made available to any party at cost. **[Amended 8-14-1990 by Ord. No. 120-1990]**
- 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 45 days. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this chapter or of any act, 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 subsection, 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 by certified mail not later than the day following its date. To all other persons who have filed their names and addresses 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.

§ 115-82. Duty to hear appeals. [Amended 1-11-2005 by Ord. No. 1-2005]

- A. 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 provisions of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.

- B. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- C. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board or any court in a subsequent appeal rules in the appealing party's favor.

§ 115-83. Challenges to validity of zoning provisions.

- A. Except as provided in § 115-85 relating to variances, the Board shall have no power to pass upon the validity of any provision of this chapter or the Zoning Map. 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 this chapter or the Zoning Map presents any issue of fact or of interpretation not hitherto properly determined at a hearing before another competent agency or body shall take evidence and make a record thereon as provided in § 115-81. 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.
- B. In considering and making a decision on a request for curative amendment submitted by a landowner pursuant to Article VI of the Pennsylvania Municipalities Planning Code (hereinafter referred to as the “Act”), the Board shall consider, in addition to the general health, safety and welfare of the public and all other matters appropriate to the decision, those factors set forth in Article VI of the Act.² [**Added 8-14-1990 by Ord. No. 120-1990; amended 12-13-2006 by Ord. No. 8-2006**]

§ 115-84. Challenges to validity of subdivision or planned residential development provisions.

Challenges to the validity of the East Bradford Township Subdivision Regulations³ or to the validity of the planned residential development provisions of this chapter and appeals from any action of the Zoning Officer thereunder shall be governed by §§ 115-82 and 115-83 but when the Board of Supervisors has held a hearing upon an application for development under the Subdivision Regulations or the planned residential development provisions of this chapter, such hearing shall be deemed in lieu of a hearing by the Board provided for under § 115-83, and appeal from any decision or determination of the Board of Supervisors, including challenge to the validity of any provision of such ordinance, shall lie directly to the court.

§ 115-85. Variances.

2. Editor's Note: See 53 P.S. § 10601 et seq.

3. Editor's Note: See Ch. 95, Subdivision and Land Development.

- A. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application and shall require preliminary application to the Zoning Officer. The Board may grant a variance, provided that the following findings are made where relevant in a given case: **[Amended 12-13-2006 by Ord. No. 8-2006]**
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or 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.
 - (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.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, nor 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.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter. The Board shall require that adequate on-site or off-site water and sewage disposal facilities are available for the use intended.
- C. Applications for uses described in § 95-13E(2) of the Code shall submit a Transportation Impact Analysis in accordance with § 95-13E. **[Added 12-13-2016 by Ord. No. 7-2016]**

§ 115-86. Special exceptions.

- A. Where this chapter has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the chapter, as it may deem necessary to implement the purposes of this chapter.
- B. The Board may, by rule, prescribe the form of application and shall, in the case of an application for a special exception, require preliminary application to the

Secretary of the Township. At a minimum, the application for special exception shall contain the following information:

- (1) The name, address and telephone number of the applicant.
 - (2) A brief, written summary describing the special exception sought and the character and extent of uses anticipated by the application.
 - (3) Three sets of plans with supporting calculations, drawn to an appropriate scale and prepared in accordance with the requirements of the East Bradford Township Subdivision and Land Development Ordinance, as those requirements relate to the preparation of land development plans, including but not limited to the content of plans and the applicable design standards contained in the aforesaid East Bradford Township Subdivision and Land Development Ordinance.⁴
- C. The Board of Supervisors shall cause to have the plans and other documents reviewed by the Township Engineer and by the East Bradford Township Planning Commission and shall forward reports prepared by said Township Engineer and Planning Commission to the Zoning Hearing Board for its consideration at least five days before the scheduled hearing date. The Board may also incorporate, at its option, any comments or recommendations it may have.
- D. The Zoning Hearing Board shall, among other things:
- (1) Determine that the use of the property adjacent to the area included in the special exception is adequately safeguarded.
 - (2) Consider the effect of the proposed use on the extension of public services and facilities such as public water, sewers, police and fire protection and schools.
 - (3) Require submission of a certificate of adequacy of sewage and water facilities from the Chester County Health Department and evidence of compliance with requirements of all other state or county agencies having jurisdiction over any proposed use, structure, service or activity on the site either during or after construction.
 - (4) Require safe and efficient use of highways and streets by limiting the total number of access points on major streets and highways and encouraging the frontage of buildings on parallel marginal roads or on roads perpendicular to the highway.
 - (5) Require submission of evidence that all special regulations, design standards and/or general standards applicable to the proposed use will be complied with.
 - (6) Determine that the proposed use will not result in undue annoyance or hazard to adjacent properties; if so, this shall be grounds for denial of a special exception.

4. Editor's Note: See Ch. 95, Subdivision and Land Development.

- (7) Place the burden of proof on the applicant that an application for a special exception complies with the foregoing standards and that it is not otherwise contrary to public health, safety and welfare.
 - (8) Weigh each case on its own merits, separately, based on pertinent information presented at the hearing and without regard to any previous case.
- E. The following standards and criteria shall be applied by the Zoning Hearing Board to applications for special exceptions pursuant to § 115-22E(4) (community living arrangement), in addition to all other applicable general standards, including, but not limited to, those in Articles XII, XIII and XV.
- (1) A dwelling may be used for a community living arrangement where the Zoning Hearing Board determines that the community living arrangement will have no greater impact on the surrounding neighborhood than a family. A community living arrangement shall have the generic character of a family and be a relatively permanent household and not a framework for transients or transient living. The community living arrangement shall not, in any sense, be an institutional arrangement.
 - (2) Residents of the community living arrangement shall remain in residence for a period of at least six months, and a change of residents shall not routinely occur except in cases of death, extended illness or disability.
 - (3) Residents of the community living arrangement shall maintain a single household with shared use of rooms, except bedrooms, and shared mealtimes and housekeeping responsibilities.
 - (4) Residents shall not receive regular medical treatment, psychological counseling or educational training on the premises. Such services, provided on a regularly scheduled basis, constitute an institutional use that is not consistent with a residential neighborhood.
 - (5) The applicant shall present a plan to indicate provision of twenty-four-hour care and supervision adequate to prevent vandalism, disorderly conduct or any other antisocial behavior on the part of the residents.
 - (6) The applicant shall demonstrate how the property will be maintained to prevent disrepair, overgrowth of weeds, accumulation of debris and like conditions which might lead to health hazards or diminution of property values.
 - (7) The use shall not create an increase in traffic or parking from that generated by a family unit.
 - (8) Any parking required by supervisors, employees, residents, guests or visitors shall be off street, and the applicant shall show that provision therefor has been made consistent with § 115-58.
 - (9) The group home shall be licensed and operated by the Department of Public

Welfare or by any other state agency or department pursuant to statutory authority.

- (10) A community living arrangement shall not have more than four residents, excluding foster parents and staff.
 - (11) No community living arrangement shall be allowed within 1/2 mile from any other community living arrangement.
 - (12) A community living arrangement shall be permitted only in a single-family dwelling and not in any other type of structure that might be otherwise allowed in the R-4 District.
 - (13) Any grant of special exception pursuant to this section shall be expressly conditioned upon the applicant providing the Township with the following information within 30 days from the date of the Zoning Hearing Board decision and annually thereafter:
 - (a) Identification of the property owner.
 - (b) Identification of the applicant.
 - (c) Identification of the operator of the facility.
 - (d) Identification of the person who is responsible for the property with specific mention on how this person may be contacted on a twenty-four-hour basis.
 - (e) List of employees and taxpayer identification numbers.
 - (f) After the first year, identification of the number of residents at the group home and the duration of each resident's stay.
 - (g) Proof of license from appropriate regulatory agency.
- F. Applications for uses described in § 95-13E(2) of the Code shall submit a Transportation Impact Analysis in accordance with § 95-13E. **[Added 12-13-2016 by Ord. No. 7-2016]**

§ 115-86.1. Temporary structures. [Added 11-8-1988 by Ord. No. 103-1988]

A. Temporary dwelling units.

- (1) No temporary structure, whether fixed or mobile in nature, shall be established for any dwelling purpose for any length of time unless it is in compliance with the Township Building Code and is approved as a special exception by the Zoning Hearing Board. Such approval shall be granted only where the applicant demonstrates that a permanent use, in compliance with the applicable terms of this chapter, is being pursued with due diligence and that the temporary dwelling will be utilized for the minimum practical time period and removed immediately upon the expiration of that period. The maximum

allowable time period for keeping a temporary dwelling unit on the property shall be 12 months, unless the Zoning Hearing Board shall, upon further request of the applicant, grant one extension of that period for a maximum of six additional months.

- (2) A use and occupancy permit shall be required prior to the utilization of any such temporary dwelling unit, and shall be issued only in accordance with the above stipulations.

B. Sales and construction trailers.

- (1) Temporary structures, located on a tract undergoing development, that are utilized for construction management purposes may, while serving that function, remain on the tract only during active development of the property. Removal shall occur immediately upon completion of the development process. Sales trailers may be located on such a tract only during active development of the property, but shall be removed no later than one year following the start of construction. No extension of this time limit shall be permissible except upon the grant of an extension of time, in up to one-year increments, by the Township Zoning Officer. A permitted use and occupancy permit shall not issue on any lot or tract until such time as sales or construction trailers have been removed. **[Amended 11-8-2005 by Ord. No. 9-2005]**

- (2) A use and occupancy permit shall be required prior to the utilization of any such temporary structure, and shall be issued only in accordance with the above stipulations.

- C. Compliance with Township ordinances.** In addition to meeting the criteria for approval of a special exception as set forth in § 115-86 above, proposed temporary structures shall comply with all other applicable regulations and ordinances of East Bradford Township, including but not limited to the area and bulk regulations and design standards of the zoning district in which the structure is located, except that the Township Zoning Officer, in his discretion, may allow temporary relief from such regulations and standards as to sales and construction trailers referenced in §115-86.1B herein. **[Amended 11-8-2005 by Ord. No. 9-2005]**

§ 115-87. Filing of appeals and requests.

Appeals under § 115-82 and proceedings to challenge any ordinance under § 115-83 may be filed with the Board, in writing, by any officer or agency of the Township or any person aggrieved. Request for a variance under § 115-85 and for special exception under § 115-86 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§ 115-88. Time limitations.

The time limitations for raising certain issues and filing certain proceedings with the Board shall be the following:

- A. No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Board later than 30 days from the time such ordinance, map or amendment takes effect unless the person raising such issue alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinances, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
- B. No person shall be allowed to refile any proceeding with the Board later than 30 days after any application for development, preliminary or final, has been approved by the Board of Supervisors if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he failed to receive adequate notice of such approval. If such person has succeeded to his interest after such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

§ 115-89. Stay of proceedings.

Upon filing of any proceeding referred to in § 115-87 and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

Article XXII: Administration

SECTION 115-2200. PURPOSE AND APPLICATION OF REGULATIONS

- A. This Article outlines the procedures by which this Chapter shall be administered, including, but not limited to, obtaining and regulating permits, enforcing this Chapter, and Zoning Officer responsibilities.
- B. Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used, or occupied, except in conformity with the regulations herein established for the district in which such land, building or structure is located.
- C. In cases of mixed occupancy, the regulations for each use shall apply to the portion of the building or land so used.

SECTION 115-2201. ZONING OFFICER

- A. Provisions of this Chapter shall be enforced by a Zoning Officer and any Deputy Zoning Officer(s) appointed by the Board of Supervisors. The Zoning Officer shall not hold any elective office in the Township, shall not be a member of the Zoning Hearing Board, shall meet qualifications established by the Township, and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning. The Zoning Officer shall administer this Chapter in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter.
- B. Specific duties of the Zoning Officer shall include:
 - 1. Administer this Chapter's provisions contained herein, including the enforcement thereof.
 - 2. Receive and examine all applications for building and use and occupancy permits, referring applications to the Planning Commission for review and recommendation when deemed advisable, record and file all applications for permits with any accompanying plans and documents.
 - 3. Issue permits only when there is compliance with the provisions of this Chapter.
 - 4. Receive applications for special exception and/or variances and forward these applications to the Zoning Hearing Board for action thereon.
 - 5. Receive applications for appeals from alleged error of the Zoning Officer and forward these applications to the Zoning Hearing Board for action thereon.
 - 6. Receive applications for conditional uses and forward these applications to the Board of Supervisors for action thereon.
 - 7. Issue permits resulting from decisions on special exception or variance applications, or from decisions on conditional use applications, only upon written order of the Zoning Hearing Board or the Board of Supervisors, respectively.
 - 8. Conduct inspections or surveys to determine compliance or noncompliance with the terms of this Chapter.

Commented [PCR1]: Zoning officer provisions are currently covered under [§115-105](#). This revised section is expanded to include additional zoning officer duties prescribed by the MPC.

9. Issue cease and desist orders, in writing, to require correction of all conditions found to be in violation of the provisions of this Chapter. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of this Chapter.
10. Coordination with the Building Code Official as necessary in the issuance of building and use and occupancy permits.
11. Upon the request of the Board of Supervisors, the Planning Commission, or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests to assist such bodies in making decisions.
12. Maintain the official Zoning Map, showing the current zoning classification of all land.

SECTION 115-2202. PERMITS

- A. Building permits. A building permit shall be required prior to the erection, alteration, enlargement, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement or demolition of any building or structure or portion thereof until a permit has been duly issued therefor. Review and approval of a zoning permit shall be contemporaneous with that of a building permit.
1. Application for building permits. All applications for building permits shall be filed in writing on a form furnished by the Township, and shall be accompanied by:
 - a. A plot plan, drawn accurately, showing the exact size and location of any buildings or other structures existing on the lot in question or upon abutting land within fifty (50) feet of the side and rear lines of such lot and the lines within which the proposed building or other structure shall be erected, altered, enlarged, or demolished.
 - b. Documents, and other supporting information as may be necessary to enable the Zoning Officer to ascertain compliance with this Chapter and all other pertinent ordinances.
 - c. Any required fees as outlined in **§115-22xx**.
 2. Issuance of building permits.
 - a. No building permit shall be issued until the Zoning Officer has certified that the proposed building, structure, alteration, enlargement, or demolition complies with the provisions of this Chapter and applicable ordinances by issuing a zoning permit.
 - b. Upon issuing the zoning permit, the Zoning Officer shall forward the documents to the Building Code Official to issue the building permit.
 - c. Upon completion of the erection, alteration or enlargement of any building, structure, or portion thereof authorized by any building permit obtained in compliance with this Chapter and prior to use or occupancy, the holder of such permit shall notify the Building Code Official of such completion. Use and occupancy shall not be authorized until the Building Code Official and Zoning Officer have certified that the work has been inspected and approved as being in conformity with this Chapter and

Commented [PCR2]: Regulations for permitting were located in a variety of sections ([§115-106](#), [§115-107](#), [§115-108](#), [§115-109](#), [110](#), & [111](#), [§115-112](#)). This section consolidates all of these into a single section and expanded for clarity purposes.

other applicable ordinances and until the Zoning Officer or Building Code Official has issued a use and occupancy permit as provided hereinafter.

- B. Use and occupancy permits. It shall be unlawful for any person to use or occupy any building or other structure or land until a use and occupancy permit, if required, has been duly issued therefor.
1. A use and occupancy permit shall be required prior to any of the following:
 - a. Use and occupancy of any building or other structure hereinafter erected, altered, or enlarged for which a building permit is required.
 - b. Complete or partial change in use of any building or structure.
 - c. Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
 - d. Change in use or extension of a nonconforming use.
 2. Application for use and occupancy permits. All applications for use and occupancy permits shall be made to the Zoning Officer or Building Code Official, in writing, on forms furnished by the Township, and shall include all information necessary to enable the Zoning Officer or Building Code Official to ascertain compliance with this Chapter.
 3. Issuance of use and occupancy permits. No use and occupancy permits shall be issued until the Zoning Officer has certified that the proposed use complies with the provisions of this Chapter. Pending completion of a building or of alterations thereto, a temporary use and occupancy permit may be issued by the Building Code Official or Zoning Officer for a temporary occupancy of part or all of the building, provided that such temporary occupancy will not tend in any way to jeopardize life or property.
- C. Zoning permits. An application for a zoning permit may be required at the discretion of the Zoning Officer when not issued contemporaneous with that of a building permit as outlined in **§115-2002(A)**.
1. Application for zoning permits. All applications for zoning permits shall be made to the Zoning Officer in accordance with this Chapter. All applications for a zoning permit shall include:
 - a. Application for a zoning permit shall be filed in writing with the Township on a form provided by the Township.
 - b. A plot plan, drawn accurately, showing the exact size and location of any buildings or other structures existing on the lot in question or upon abutting land within twenty-five (25) feet of the side and rear lines of such lot and the lines within which the proposed building or other structure shall be erected, altered, enlarged, or demolished.
 - c. All applicable fees shall be paid in accordance with **§115-2003**.
 2. Permits shall be granted or refused, in writing, within fifteen (15) days after receipt of application and shall be valid for one (1) year from the date of issue.

3. A copy of the approved permit shall be kept conspicuously on the premises, and no person shall perform building operations of any kind unless a zoning permit is being displayed as required by this Chapter.
4. Permits may be renewed annually within fifteen (15) days from the expiration thereof for additional successive periods of one (1) year, but each such renewal permit and the issuance thereof shall be subject to the provisions of all of the applicable Township ordinances and any rules, regulations and resolutions made pursuant thereto which are in effect on the date of renewal, which shall be the date of the expiration of the preceding permit. Failure to renew within the required time shall terminate all renewal privileges.
5. Before any renewal permit shall be issued, the permittee shall pay an additional fee in accordance with **§115-2003**, and the cost of any additional inspection or other services required to be performed by the Zoning Officer and/or his/her designee prior to the issuance of such permit.
6. Appeals. Whenever a zoning permit is refused or is not acted upon within the required time or an order is given by the Zoning Officer to cease an alleged violation of this Chapter, the party so refused the permit or to whom the order is given may appeal such action to the Zoning Hearing Board, or whenever a permit is granted, any interested or affected resident or property owner of the Township may appeal the granting of such permit to the Zoning Hearing Board, who may, if the case warrants, hold the use of building proposed in violation of the Chapter and rescind the permit; provided that such appeals are instituted within the time and in the manner prescribed by the Zoning Hearing Board in the rules it shall formulate.

SECTION 115-2203. FEES

Commented [PCR3]: Section expanded to incorporate MPC language relevant to fees.

- A. Permit Applications. Fees for application for any permit established under this Article shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.
- B. Schedule of Fees. The Board of Supervisors shall establish by resolution a schedule of fees, charges, and expenses for required permits and other actions enabled by the Pennsylvania Municipalities Planning Code pertaining to the administration of this Chapter. Said schedule of fees shall be available from the Township and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.
- C. Application or Appeals Before the Board of Supervisors or Zoning Hearing Board.
 1. Upon submission of an application or appeal before the Board of Supervisors or the Zoning Hearing Board, the applicant shall deposit an amount of money in accordance with a fee schedule adopted by resolution of the Board of Supervisors. The Zoning Officer shall determine in which category an application falls and, therefore, what amount is due.
 2. If, at any time, the charges then made against the applicant's deposit shall render the balance insufficient to ensure payment of all expenses that may accrue in the disposition of the pending appeal or application, the Zoning Officer shall obtain from the applicant additional deposits to assure adequate funds to pay such expenses as they may accrue. Prior to final disposition of the matter, the amount of the deposit shall not be less than fifteen (15) percent of the initial deposit amount. The failure of the Zoning Officer to require and obtain additional deposits from time to time shall not relieve the applicant from liability for expenses in excess of deposits.

SECTION 115-2204. BOARD OF SUPERVISORS JURISDICTION

Commented [PCR4]: New Section to outline applicable areas related to Zoning under the jurisdiction of the BOS under the MPC.

The Board of Supervisors shall have exclusive jurisdiction to hear and render final adjudications in the following matters, based on the Pennsylvania Municipalities Planning Code Section 909(1)(b):

- A. Applications for planned residential developments under the Pennsylvania Municipalities Planning Code Article VII.
- B. Applications for conditional use under the Pennsylvania Municipalities Planning Code Section 603(c)(2).
- C. Applications for subdivision and land development approval under the Pennsylvania Municipalities Planning Code Article V.
- D. Applications for curative amendments pursuant to Pennsylvania Municipalities Planning Code Sections 609.1 and 916.1(a)(2).
- E. Petitions for amendments to this Chapter, pursuant to the Pennsylvania Municipalities Planning Code Section 609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with references to appeals to court.
- F. Amendments to the Official Map under Pennsylvania Municipalities Planning Code Article IV.

SECTION 115-2205. CONDITIONAL USE PROCESS

Commented [PCR5]: This is the present standards use by the Township for conditional uses relocated from Article XV - General Regulations ([§115-77](#))

A conditional use is a use permitted by the Board of Supervisors pursuant to the provisions of this Chapter. Where this Chapter has provided for conditional uses to be granted or denied by the Board of Supervisors, the procedures outlined in this Section shall be adhered to; and the Board shall give consideration to such conditional uses in accordance with the criteria set forth herein and in other specifically applicable sections of this Chapter. The provisions in this Chapter are intended to limit plan revisions during the conditional use process. The applicant has ample opportunities to obtain input from the staff, Planning Commission, and other advisory boards and commissions during the sketch plan stage.

- A. The applicant is strongly encouraged to submit a sketch plan prepared in accordance with **§95-12** of the Code. By submitting a sketch plan, the applicant will benefit from input from the staff, Planning Commission and other advisory boards and commissions before presenting the conditional use plan to the Planning Commission and Board of Supervisors.
- B. Applications for conditional uses. An application for a conditional use shall be made to the Board of Supervisors, in writing, on a form furnished by the Township, and shall be accompanied by a plan prepared in accordance with **§115-2205(F)**. In addition, the applicant shall complete and execute a cash escrow agreement on a form supplied by the Township. The cash escrow agreement shall be initially funded in an amount estimated by the Township to be sufficient to cover all Township costs, fees, and charges to be incurred by it as a result of the application. The applicant shall also pay the filing fee as set forth in a resolution of the Board of Supervisors.
- C. Procedure.
 - 1. Upon receipt of a complete application for a conditional use, the Board of Supervisors shall promptly send copies of the application and all supporting materials to the East Bradford Township Planning

Commission and any other advisory boards/commissions, the Chester County Planning Commission, the Township Engineer, and other consultants, as required.

2. Upon receipt of the application, the Board of Supervisors shall schedule, advertise, and hold a public hearing at which the application shall be considered. The hearing shall be held within sixty (60) days of the date upon which the application was submitted to the Board of Supervisors.
3. The Township advisory boards/commissions, the Chester County Planning Commission, the Township Engineer, and other consultants shall promptly submit their review comments to the East Bradford Township Planning Commission.
4. The Planning Commission shall promptly review and consider the application and all supporting materials and shall make recommendations thereon.
5. All owners of land within five hundred (500) feet of the property and all persons registered with the Township to receive notice under **§115-119.1A** shall be notified by the applicant of the conditional use application pursuant to the criteria set forth in **§115-119.1**. The applicant shall show proof at the conditional use hearing that all property owners were notified.
6. A stenographic record of the hearing proceedings shall be made by a court reporter. The appearance fee for the court reporter shall be shared equally by the applicant and the Township. Any party requesting the original transcript or a copy of the transcript shall bear the cost of the same.

D. Determination by the Board of Supervisors.

1. The Board of Supervisors shall, within forty-five (45) days of the date of such hearing, render a final decision and shall, by official written communication to the applicant, either:
 - a. Approve the application as presented;
 - b. Disapprove the application as presented; or
 - c. Approve the application subject to specified conditions.
2. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with any reasons therefor. Conclusions based upon any provisions of the Pennsylvania Municipalities Planning Code (MPC) or of any ordinance, rule or regulation of the Township shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
3. When the Board of Supervisors fails to render the decision within the period required by this subsection or fails to hold the required hearing within sixty (60) days from the date of the applicant's 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 Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the MPC. If the Board of Supervisors shall fail to provide such notice, the applicant may do so.

4. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to the Court of Common Pleas of Chester County.
 5. A copy of the decision shall be delivered to the applicant personally or mailed to the applicant no later than the day following the date of the decision.
 6. Expiration of Conditional Use Approval. Any grant of conditional use approval shall be deemed null and void twelve (12) months from the date of such approval if, within that period, no application is made for a building permit, a use and occupancy permit, or subdivision and/or land development approval, as appropriate, unless such extension is granted by the Board of Supervisors. It shall be the responsibility of the party seeking to obtain the aforementioned permits and/or approvals to request an extension of the twelve (12) month expiration period in writing with the Township a minimum of thirty (30) days in advance of the expiration date of the approved conditional use. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in the conditional use application or the neighborhood in which the property is located. Failure to pursue necessary associated approvals shall not be grounds for an extension.
- E. General standards. In considering any application for conditional use permitted by this Chapter, the Board of Supervisors shall, in addition to applying the express standards and criteria set forth in this Chapter:
1. Assure itself that the proposed use is consistent with the spirit, purpose and intent of the Zoning Ordinance.
 2. Determine that the proposed use will not substantially injure or detract from the use of the neighborhood property or from the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
 3. Determine that the proposed use will serve the best interests of the Township, the convenience of the community, where applicable, and the public welfare.
 4. Consider the effect of the proposed use upon the logical, efficient, and economical extension of public service and facilities such as public water, sewers, police and fire protection and public schools and assure adequate arrangements for sanitation in specific instances.
 5. Be guided in its study, review and recommendation by sound standards of land development practice where applicable.
 6. Guide the development of state and county highway frontage insofar as possible so as to limit the total number of access points and encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the highway.
 7. In approving a conditional use application, where such use is authorized under this Chapter, the Board of Supervisors may, in its sole discretion, attach such conditions to its approval as it deems necessary to further the purposes of this Chapter. Such conditions may include, but need not be limited to:
 - a. Specific modifications to area and bulk requirements as might otherwise be applicable;
 - b. Provisions for additional utility or traffic safety facilities;

Commented [PCR6]: New section proposed to give the Township the ability to better control conditional use approvals that are not acted upon in a reasonable time period.

- c. Additional easements on properties to assure proper site design;
 - d. Modifications to the applicable design standards;
 - e. Provisions requiring harmonious design of buildings, plantings and maintenance of sight and sound screens; or
 - f. Provisions minimizing obnoxious, offensive, or hazardous elements or odors.
8. Weigh each case on its own merits, separately, based upon pertinent information presented or known to the Board and without regard to any previous case.
9. Consider the comments, if any, provided by the Chester County Planning Commission and the Chester County Health Department.
- F. Plan requirements.
- 1. Drafting requirements.
 - a. Maps shall be drawn to a scale not smaller than fifty (50) feet to the inch.
 - b. The material to be submitted for consideration as the conditional use plan shall be prepared in accordance with the Act of May 23, 1945 (P.L. 913, No. 367), known as the "Professional Engineers Registration Law."
 - c. The sheets submitted shall be no smaller than seventeen (17) inches by twenty-two (22) inches and no larger than thirty-four (34) inches by forty-four (44) inches. If more than one (1) sheet is necessary, each sheet shall be the same size and numbered to show its relation to the total number of sheets in the plan, for example "Sheet No. 1 of 5 sheets."
 - d. Where two (2) or more sheets are submitted, a key map at a scale sufficient to show their relationship shall be provided.
 - e. Plans must also be submitted in an electronic format using software compatible with the Township Engineer.
 - 2. Location, identification, and background.
 - a. A sketch or map, drawn approximately to scale, showing the location of the proposed subdivision or land development in relation to adjacent properties and existing streets.
 - b. The limits, dimensions, and acreage of the tract to be subdivided or developed.
 - c. The date, scale, and North point.
 - d. The name and address of the landowner.
 - e. The name, address, telephone number and e-mail address, if available, of the applicant.

- f. The zoning applicable to the tract to be subdivided or developed, along with all zoning boundaries, if any, that traverse or are within three hundred (300) feet of the tract.
3. Existing features.
- a. Natural features.
 - 1. Contours at vertical intervals of two (2) feet.
 - a. Datum to which elevations refer.
 - 2. Steep slopes.
 - a. In plotting steep slopes, the applicant shall distinguish by shading those slopes between twenty percent (20%) and thirty percent (30%) from those slopes in excess of thirty percent (30%) and shall indicate the extent of those slopes considered to be man-made.
 - b. When applicable, the applicant shall identify any proposed uses that are permitted by right in steep slope areas in excess of twenty percent (20%) but not exceeding thirty percent (30%) grade in accordance with **§115-43(D)(3)(c)**.
 - 3. In determining the area of steeply sloping land on any site, the following rules shall apply:
 - a. The maximum elevation difference over which steep slope, including prohibitive slopes, may be determined is twenty (20) feet.
 - b. The limit of steeply sloping areas is to be determined by the first contour interval over which twenty percent (20%) slopes occur or, in the case of prohibitive slopes, over which thirty percent (30%) slopes occur, and steep slope areas may not be averaged over areas of lesser slopes.
 - c. Areas of steep slope, including those areas of prohibitive slope, consisting of two (2) contour intervals or less and less than 1,000 square feet in extent may be excluded, provided that they do not adjoin or abut larger areas of steep slopes, as defined herein.
 - d. Small areas of less than steep and prohibitive slope occurring in the midst of larger areas of similar slope shall be averaged into the adjoining steep slope area.
 - e. For the purpose of lot area calculation, the total area of steep slope shall be carefully measured and enumerated on the plan with respect to their occurrence in each of the individual lots proposed.
 - 4. Generalized soil types as mapped in the Soil Survey of Chester and Delaware Counties.
 - 5. Wetlands delineation completed by a wetland specialist certified in delineation of wetlands per United States Army Corps of Engineers regulations and guidelines.

6. A description of each soil classification found on the parcel, which explains limitations for on-site sewage disposal and is correlated with the results of percolation tests that may be required under **§95-13C(1)(j)**.
 7. Areas within the Floodplain District, including floodway, floodway fringe, and approximated floodplain areas as delineated by the Flood Insurance Rate Maps and Flood Insurance Studies prepared for the Township of East Bradford by the Federal Insurance Administration.
 8. Water bodies and watercourses, both perennial and seasonal.
 9. Riparian Buffer areas in compliance with 115-45.3, the Riparian buffer area (RBA) Conservation District.
 10. The location of existing individual trees over six (6) inches dbh, tree masses and their associated vegetation layers, mature trees and other vegetation such as hedgerows; wetland vegetation; old field; meadow, pasture or cropland; orchard; cultivated and ornamental garden areas; etc.
 11. If applicable, the boundaries of the Brandywine Scenic River District, including the locations of areas designated as "visually significant landscapes." The applicant shall indicate the relationship between the boundaries of the BSR District and the locations of ridge lines identified as per **§95-13C(1)(k)**.
 12. A delineation of those portions of the tract visible from adjacent public roads.
 13. Any other significant natural features within the proposed subdivision and within fifty (50) feet of the boundaries of the proposed subdivision.
- b. Built features.
1. Existing structures and other improvements.
 2. All existing streets on or immediately adjacent to the tract, including name, right-of-way width, and cartway width.
 3. The location and, where applicable, the dimensions of existing easements, rights-of-way, public lands, monuments, and other similar features.
 4. All existing sewers, water mains, culverts, petroleum products or gas mains, fire hydrants, wells, septic systems, drain fields, and other significant man-made facilities on the tract and within fifty (50) feet of the boundaries of the tract.
 5. Locations on the tract or within fifty (50) feet of the property boundary of resources of known or potential local, state or national historical significance, including buildings, structures, objects, sites or districts (above or below ground).
 6. Existing paths and trails.
 7. Locations within the tract, and off the tract within three hundred (300) feet of the tract boundary, of all structures and areas of known or identified historical significance. Where such structures or

areas of historical significance are required to be located on the plan, a notation shall be included on the plan indicating whether or not an historic resource impact study has been submitted to the Township in accordance with **§115-131.1**.

4. Proposed features.
 - a. A statement describing proposed public improvements, including streets and gutters, and including the means of water supply and sanitary drainage to be provided.
 - b. A description of the proposed use of the development.
 - c. Calculations showing the lot area of each proposed lot.
 - d. All building setback lines and driveway lines, with distances from ultimate right-of-way lines.
 - e. Type of dwelling(s), if applicable.
 - f. All covenants relating to use, including all existing and proposed easements and rights-of-way.
 - g. With respect to installations of any public improvements within a subdivision and in conjunction with a subdivision and in conjunction with any land development plan, notations must be shown indicating all tree masses, specimen trees and trees over six (6) inch caliper proposed to be cleared and all proposed alterations of the natural grasses exceeding two (2) feet.
 - h. All applications for conditional use shall be accompanied by information with regard to the means of sewage disposal and provision of water supply and, if community on-site sewage facilities are contemplated, the applicant shall submit a complete design of the system and analysis of the environmental impacts per the requirements of Chapter 73 of the Pennsylvania Code to ensure the proposal is feasible, the site layout will remain as proposed and all buffering requirements of the Pennsylvania Code are adhered to.
 - i. Identification of any land to be dedicated for public use (refer to the Township Official Map).
 - j. Proposed changes in vegetation, including:
 1. The location of all vegetation which is to be removed, including tree masses and freestanding mature trees and their species and caliper.
 2. The locations of proposed grading and other earth disturbances as they relate to a tree protection zone.
 - k. A conditional use stormwater management plan, when required per **§95-26**, Stormwater management, shall include:
 1. A map showing approximate locations and a description of stormwater management system components, design, and operation, including but not limited to:

- a. The location and area of all forests, lakes, ponds, watercourses, including drainage swales, and slopes steeper than twenty percent (20%) located within the proposed site of subdivision or land development.
 - b. Rights-of-way or easements proposed to be created for drainage purposes and proposed ownership and maintenance responsibility for those rights-of-way or easements.
2. A narrative summary of the project, including, but not limited to, the following: a description of how the proposed project complies with all requirements of federal, commonwealth, and county agencies with regard to stormwater management.
3. Plans and data shall be prepared and submitted by a licensed professional engineer with experience and education in soil mechanics. These reports shall include discussion of recharge capability and recharge system applicability and offer suggestions for water infiltration capacity, soil settling characteristics and the suitability of existing soils.
1. Where the conditional use plan covers only a part of the applicant's entire contiguous holding and additional subdivision would be possible, a sketch shall be submitted of the prospective street and lot layout for the remainder per the requirements of **§95-12A(1) through (10)**, except submission of such materials shall be mandatory, not at the discretion of the applicant, as would be the case with a sketch plan.
- m. On-site sewer and water service. For a development where on-site water and/or on-site sewage disposal are permitted, the applicant shall submit information as required by the Board of Supervisors that adequate and safe water and sewer service is available to serve the proposed development or use without causing adverse environmental damage or negatively affecting adjacent property owners.
5. The names of current owners of all abutting unplotted land and the names of all abutting subdivisions or developments.
6. Applications for uses described in **§95-13E(2)** of the Code shall submit a Transportation Impact Analysis in accordance with **§95-13E**.
- G. Extension or change. A use of a building or lot authorized as a conditional use, either by decision of the Board of Supervisors or by the enactment of or amendment to this Chapter, may be extended or changed within the building or upon the lot only when authorized as a conditional use following application to and approval by the Board of Supervisors in accordance with procedures, standards and criteria set forth in this Chapter.

SECTION 115-2206. NOTICE

- A. Owners and occupiers of properties in the Township may register their names with the Township Zoning Officer for purposes of receiving notice of the filing of any application requiring notice pursuant to this section.
- B. When notice is required to be sent to property owners within a certain distance from a subject property, or to all property owners or occupiers who have registered their names with the Township pursuant to **Subsection A** of this section, such notice shall be as follows:

1. All distances shall be measured at a right angle from all points on every property line.
2. The names and addresses of adjacent property owners shall be obtained from records of the Chester County Tax Assessment Office. The names and addresses of the owners registered under **Subsection A** of this section shall be obtained from the Township Zoning Officer.
3. The notification shall be sent by regular mail and certified mail, return receipt requested, and mailed a minimum of two (2) weeks before the first scheduled public hearing of the Board of Supervisors or the Zoning Hearing Board, as applicable. At the hearing, if applicable, the applicant shall provide a copy of each notification sent and certified mail green cards, or electronic equivalent, if available. The hearing shall not proceed unless the copies are provided.
4. At a minimum, the written notice shall contain the street address of the parcel subject to the application, a general description of what is proposed by the applicant, and the time, date, and location of the first hearing. The notice shall also inform the property owner that only one (1) notice will be provided and that they are not required to attend but may attend if interested.

C. Failure to give notice as required by this section shall not invalidate any action taken by the Township.

SECTION 115-2207. AMENDMENTS

A. Amendment procedure.

1. The Board of Supervisors may, from time to time, amend, supplement, change, modify, or repeal this Chapter, including the Zoning Map.
2. The Board of Supervisors shall fix the time and place for the public hearing and shall give notice of such hearing as prescribed in Section 610(a) of the Municipalities Planning Code. The notice shall state the particular nature of the matter to be addressed through the proposed amendment and a reference to a place in the Township where copies of the proposed amendment may be examined or purchased at a charge not exceeding the cost thereof.
3. If the proposed amendment involves a Zoning Map change, notice of the public hearing shall be conspicuously posted by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
4. In the event that substantial amendments are made to the proposed amendment, then the Board, at least ten (10) days prior to the scheduled enactment, shall readvertise, in a newspaper of general circulation within the Township, a brief summary setting forth all the provisions in reasonable detail, together with a summary of the proposed amendments. The Board also shall readvertise any proposed amendment where the scheduled date of enactment is more than sixty (60) days following the date of the last advertisement of the proposed amendment.
5. Within thirty (30) days after enactment, a copy of the amendment shall be forwarded to the Chester County Planning Commission.

Commented [PCR7]: Regulations for amendments were located in a variety of sections (~~§115-117, §115-118, §115-119~~). This section consolidates all of these into a single section and is reorganized for clarity purposes.

- 6. In considering and making a decision on a request for curative amendment submitted by a landowner pursuant to Section 609.1 of the Municipalities Planning Code, the Board of Supervisors shall consider, in addition to the general health, safety and welfare of the public and all other matters appropriate to the decision, those factors set forth in Section 609.1 of the Municipalities Planning Code.
- B. Protest against amendment. In the case of a protest against any proposed amendment, change, modification or repeal, signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the rear or in front or to either side thereof, extending one hundred (100) feet therefrom, such amendment shall not become effective except by favorable vote of a majority of the entire Board of Supervisors.
- C. Referrals to the Planning Commission.
 - 1. The Board of Supervisors shall refer each petition or proposal for change or amendment, whether under this Article or under another Article, to the Planning Commission, which shall consider whether or not such proposed change or amendment would be, in the view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this Chapter is based, as the same may be modified from time to time.
 - 2. The Planning Commission shall transmit its conclusion thereon, together with its reasons therefor, to the Board of Supervisors within forty-five (45) days.
 - 3. The Board of Supervisors shall take such conclusion and reasons into consideration in reaching its decision but shall not be bound thereby.

SECTION 115-2207. VIOLATIONS, CAUSES OF ACTION, AND ENFORCEMENT

- A. Complaints of Violation. It shall be a violation of this Chapter to undertake any action which is contrary to the terms of this Chapter, including but not limited to the failure to obtain a building permit or use and occupancy permit as required by **Article XXII**. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint in regard thereto. All such complaints shall be signed, shall state fully the causes and basis of the complaint, and shall be filed with the Zoning Officer. The Zoning Officer shall record properly such complaint, investigate, and take action thereon as provided by this Article.
- B. Causes of Action.
 - 1. Where any building, structure, landscaping, or land is or is proposed to be, erected, reconstructed, altered, converted, maintained, or used in violation of this Chapter, the Board of Supervisors or, with approval of the Board of Supervisors, an officer of the Township or an aggrieved owner or tenant of real property who shows that their property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent in or about such premises, any act, conduct, business, or use constituting a violation. Where any such action is instituted by an owner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun, by serving a copy of the complaint upon the Board of Supervisors. No such action may be maintained until such notice has been given.

Commented [PCR8]: Regulations for violations and enforcement were located in a variety of sections ([§115-114](#), [§115-115](#), [§115-116](#)). This section consolidates all of these into a single section and is reorganized and expanded with MPC language for clarity purposes.

2. In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Chapter, the Board of Supervisors or the Zoning Officer or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or use of land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
3. Where any action authorized in **Subsection 2** above is instituted by a landowner or tenant, notice of that action shall be served upon the Township, at least thirty (30) days prior to the time the action is begun, by serving a copy of the complaint upon the Board. No such action may be maintained until such notice has been given.

C. Enforcement Notice.

1. If the Zoning Officer determines that a violation of this Chapter has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section based on the Pennsylvania Municipalities Planning Code Section 616.1. By means of the enforcement notice, the Zoning Officer may order discontinuance of illegal use of land or structures; removal of illegal structures or additions, alterations, or structural changes thereto; or discontinuance of any illegal work being done.
2. The enforcement notice shall be sent via certified mail to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
3. An enforcement notice shall, at minimum, state the following:
 - a. The name of the owner of record and any other persons against whom the Township intends to take action.
 - b. The location of the property in violation.
 - c. The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
 - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board, in accordance with the procedures set forth in **Article XXI**.
 - f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions, described.
4. Any person, partnership, or corporation who has received a notice of violation from the Township may either correct the violation within the allotted time period, or if believed to be wrongfully served, promptly file an appeal with the Zoning Hearing Board pursuant to **Article XXI** of this Chapter.

5. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
 6. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
- D. Enforcement Remedies. Any person, partnership, or corporation that has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.
1. No judgment shall commence or be imposed, levied, or be payable until the date of the determination of a violation by the Magisterial District Judge.
 2. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure.
 3. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
 4. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid to East Bradford Township.
 5. The appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.
 6. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
 7. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
 8. Magisterial District Judges shall have initial jurisdiction over proceedings brought under enforcement remedies.
 9. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Chapter.

ARTICLE XIX

Administration

[Amended 7-8-1980 by Ord. No. 39-1980; 3-21-1988 by Ord. No. 97-1988]

§ 115-104. Application of regulations.

- A. Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used or occupied, except in conformity with the regulations herein established for the district in which such land, building or structure is located.
- B. In cases of mixed occupancy, the regulations for each use shall apply to the portion of the building or land so used.

§ 115-105. Enforcement. [Amended 8-14-1990 by Ord. No. 120-1990]

There shall be a Zoning Officer, who shall be appointed by the Board and shall meet the qualifications established by the Board and whose duty it shall be and is hereby given the power and authority to enforce the provisions of this chapter. The Zoning Officer shall examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits with any accompanying plans and documents which shall be matters of public record and make such reports as the Board may require. Permits for construction and uses which are a special exception or a variance from the requirements of this chapter shall be issued only upon order of the Zoning Hearing Board.

§ 115-106. Building permits required. [Amended 2-14-1989 by Ord. No. 108-1989]

A building permit shall be required prior to the erection, alteration, enlargement or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement or demolition of any building or structure or portion thereof until a permit has been duly issued therefor.¹

§ 115-107. Application for building permit. [Amended 2-14-1989 by Ord. No. 108-1989]

All applications for building permits shall be made to the Zoning Officer, in writing, on a form furnished by the Township, and shall be accompanied by a plot plan, drawn accurately, showing the exact size and location of any buildings or other structures existing on the lot in question or upon abutting land within 50 feet of the side and rear lines of such lot and the lines within which the proposed building or other structure shall be erected, altered, enlarged or demolished. There shall, in addition, be included with all applications such other plans, documents and information as may be necessary to enable the Zoning Officer to ascertain compliance with this chapter and all other pertinent ordinances.

§ 115-108. Issuance of building permits. [Amended 2-14-1989 by Ord. No. 108-1989; 8-10-2004 by Ord. No. 4-2004]

No building permit shall be issued until the Zoning Officer has certified that the proposed building, structure, alteration, enlargement or demolition complies with the provisions of this chapter and applicable ordinances by issuing a zoning compliance

1. Editor's Note: See also Ch. 45, Building Construction.

permit. Upon issuing the zoning compliance permit, the Zoning Officer shall forward the documents to the Codes Enforcement Officer to issue the building permit. Upon completion of the erection, alteration or enlargement of any building, structure or portion thereof authorized by any building permit obtained in compliance with this chapter and prior to use or occupancy, the holder of such permit shall notify the Codes Enforcement Officer of such completion. Use and occupancy shall not be authorized until the Codes Enforcement Officer and Zoning Officer have certified that the work has been inspected and approved as being in conformity with this chapter and other applicable ordinances and until the Zoning Officer or Codes Enforcement Officer has issued a use and occupancy permit as provided hereinafter. The Codes Enforcement Officer or his agent must, within three working days of the notice, inspect the premises or the occupancy shall be considered approved.

§ 115-109. Use and occupancy permit required.

It shall be unlawful for any person to use or occupy any building or other structure or land until a use and occupancy permit, if required, has been duly issued therefor. A use and occupancy permit shall be required prior to any of the following:

- A. Use and occupancy of any building or other structure hereinafter erected, altered or enlarged for which a building permit is required.
- B. Complete or partial change in use of any building or structure. **[Amended 10-13-1992 by Ord. No. 137-1992]**
- C. Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
- D. Change in use or extension of a nonconforming use.

§ 115-110. Application for use and occupancy permit. [Amended 8-10-2004 by Ord. No. 4-2004]

All applications for use and occupancy permits shall be made to the Zoning Officer or Codes Enforcement Officer, in writing, on forms furnished by the Township, and shall include all information necessary to enable the Zoning Officer or Codes Enforcement Officer to ascertain compliance with this chapter.

§ 115-111. Issuance of use and occupancy permit. [Amended 8-10-2004 by Ord. No. 4-2004]

No use and occupancy permits shall be issued until the Zoning Officer has certified that the proposed use complies with the provisions of this chapter. Pending completion of a building or of alterations thereto, a temporary use and occupancy permit may be issued by the Codes Enforcement Officer or Zoning Officer for a temporary occupancy of part or all of the building, provided that such temporary occupancy will not tend in any way to jeopardize life or property.

§ 115-112. Issuance or refusal of permits. [Amended 2-14-1989 by Ord. No.

108-1989]

- A. If the Zoning Officer determines that an application is in compliance with the provisions of this chapter, it shall be his duty to issue the appropriate permit without delay; and if he determines that an application is not in compliance with the provisions of this chapter, it shall be his duty to refuse the permit without delay.
- B. Any application for a permit to demolish a Class I or Class II historic resource, as defined in § 115-122 of this chapter, shall be reviewed and decided upon in accordance with the procedures prescribed in § 115-125 of this chapter.
- C. Any application to rehabilitate, enlarge or alter a Class I historic resource shall be reviewed and decided upon in accordance with the procedures prescribed in § 115-127 of this chapter.

§ 115-113. Fees.

Fees for building permits, other fees required in the administration of the chapter and fees to cover the cost of required hearings before the Board of Supervisors shall be paid in advance in accordance with a schedule of fees adopted by resolution of the Board.²

§ 115-114. Violations; causes of action. [Added 8-14-1990 by Ord. No. 120-1990³]

- A. It shall be a violation of this chapter to undertake any action which is contrary to the terms of this chapter, including but not limited to the failure to obtain a building permit or use and occupancy permit as required by Article XIX.
- B. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Officer. The Zoning Officer shall properly record such complaint, investigate, take action thereon as provided by this chapter and report to the Board of Supervisors regarding the complaint and any actions taken in response thereto.
- C. In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Board of Supervisors or the Zoning Officer or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or use of land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.
- D. Where any action authorized in Subsection C above is instituted by a landowner or tenant, notice of that action shall be served upon the Township, at least 30 days prior to the time the action is begun, by serving a copy of the complaint upon the

2. Editor's Note: The current fee resolution is on file in the office of the Township Secretary.

3. Editor's Note: This ordinance also provided for the repeal of former § 115-114, Violations.

Board. No such action may be maintained until such notice has been given.

§ 115-115. Enforcement notice. [Added 8-14-1990 by Ord. No. 120-1990⁴]

- A. If it appears to the Township that a violation of this chapter has occurred, the Zoning Officer may initiate enforcement proceedings by sending an enforcement notice. By means of the enforcement notice, the Zoning Officer may order discontinuance of any illegal use of land or structure; removal of illegal structures or additions, alterations or structural changes thereto; or discontinuance of any other work being done in violation of this chapter.
- B. The enforcement notice shall be sent to the owner of record on the lot on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested, in writing, by the owner of record.
- C. An enforcement notice shall, at minimum, state the following:
 - (1) The name of the owner of record and any other persons against whom the Township intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of the chapter.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board, in accordance with the procedures set forth in this chapter.
 - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Board, constitutes a violation, with the possibility of sanctions.
- D. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first. **[Added 5-13-1997 by Ord. No. 1-1997]**
- E. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor. **[Added 5-13-1997 by Ord. No. 1-1997]**

§ 115-116. Enforcement remedies. [Added 8-14-1990 by Ord. No. 120-1990⁵]

Any person, partnership or corporation who or which has violated or permitted the

4. Editor's Note: This ordinance also provided for the repeal of former § 115-115, Penalties.

5. Editor's Note: This ordinance also provided for the repeal of former § 115-116, Remedies.

violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice. Thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys fees collected for the violation of the Zoning Ordinance shall be paid over to the Township.

§ 115-117. Amendment procedure. [Amended 8-14-1990 by Ord. No. 120-1990]

- A. The Board may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map.⁶
- B. The Board of Supervisors shall, by resolution, fix the time and place for the public hearing and shall give notice of such hearing as prescribed in Section 610(a) of the Act.⁷ The notice shall state the particular nature of the matter to be addressed through the proposed amendment and a reference to a place in the Township where copies of the proposed amendment may be examined or purchased at a charge not exceeding the cost thereof.
- C. If the proposed amendment involves a Zoning Map change, notice of the public hearing shall be conspicuously posted by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- D. In the event that substantial amendments are made to the proposed amendment, then the Board, at least 10 days prior to the scheduled enactment, shall readvertise, in a newspaper of general circulation within the Township, a brief summary setting forth all the provisions in reasonable detail, together with a summary of the proposed amendments. The Board also shall readvertise any proposed amendment where the scheduled date of enactment is more than 60 days following the date of the last advertisement of the proposed amendment.
- E. Within 30 days after enactment, a copy of the amendment shall be forwarded to the Chester County Planning Commission.
- F. In considering and making a decision on a request for curative amendment submitted by a landowner pursuant to Section 609.1 of the Act,⁸ the Board shall

6. Editor's Note: The Zoning Map is on file in the Township offices.

7. Editor's Note: See 53 P.S. § 10610(a).

consider, in addition to the general health, safety and welfare of the public and all other matters appropriate to the decision, those factors set forth in Section 609.1 of the Act.⁹

§ 115-118. Protest against amendment.

In the case of a protest against any proposed amendment, change, modification or repeal, signed by the owners of 20% or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the rear or in front or to either side thereof, extending 100 feet therefrom, such amendment shall not become effective except by favorable vote of a majority of the entire Board of Supervisors.

§ 115-119. Referrals to Planning Commission.

The Board of Supervisors shall refer each petition or proposal for change or amendment, whether under this article or under another article, to the Planning Commission, which shall consider whether or not such proposed change or amendment would be, in the view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this chapter is based, as the same may be modified from time to time. The Commission shall transmit its conclusion thereon, together with its reasons therefor, to the Board within 30 days. The Board shall take such conclusion and reasons into consideration in reaching its decision but shall not be bound thereby.

§ 115-119.1. Notice. [Added 2-12-2019 by Ord. No. 01-2019]

- A. Owners and occupiers of properties in the Township may register their names with the Township Zoning Officer for purposes of receiving notice of the filing of any application requiring notice pursuant to this section.
- B. When notice is required to be sent to property owners within a certain distance from a subject property, or to all property owners or occupiers who have registered their names with the Township pursuant to Subsection A of this section, such notice shall be as follows:
 - (1) All distances shall be measured at a right angle from all points on every property line.
 - (2) The names and addresses of adjacent property owners shall be obtained from records of the Chester County Tax Assessment Office. The names and addresses of the owners registered under Subsection A of this section shall be obtained from the Township Zoning Officer.
 - (3) The notification shall be sent by regular mail and certified mail, return receipt requested, and mailed a minimum of two weeks before the first scheduled public hearing of the Board of Supervisors or the Zoning Hearing Board, as applicable. At the hearing, if applicable, the applicant shall provide a copy of

8. Editor's Note: See 53 P.S. § 10609.1.

9. Editor's Note: See 53 P.S. § 10609.1.

each notification sent and certified mail green cards, or electronic equivalent, if available. The hearing shall not proceed unless the copies are provided.

- (4) At a minimum, the written notice shall contain the street address of the parcel subject to the application, a general description of what is proposed by the applicant, and the time, date and location of the first hearing. The notice shall also inform the property owner that only one notice will be provided and that they are not required to attend, but may attend if interested.
- C. Failure to give notice as required by this section shall not invalidate any action taken by the Township.