

SALFORD TOWNSHIP
Montgomery County, Pennsylvania

ORDINANCE #164

AN ORDINANCE AMENDING THE SALFORD TOWNSHIP ZONING ORDINANCE
BY REPLACING THE EXISTING ARTICLE 4 [ZONING HEARING BOARD] WITH
A NEW ARTICLE 4 [ZONING HEARING BOARD]

ENACTED: 10/1/2014

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NOW, THEREFOREE, it is hereby **ENACTED** and **ORDAINED** by the Salford Township Board of Supervisors that the Township's Zoning Ordinance is hereby amended as follows:

SECTION 1. Replacement of Article 4 [Zoning Hearing Board]

Article 4 [Zoning Hearing Board] shall be replaced in its entirety with a new Article 4, which read provide as follows:

Article 4
Zoning Hearing Board

SECTION 401. Establishment; membership; terms; removal.

- A. There shall be a Zoning Hearing Board which shall consist of three residents of Salford Township who shall be appointed by resolution of the Supervisors of Salford Township. In addition to the three member appointments, the Zoning Hearing Board shall consist also of two alternate members who shall also be appointed by the Supervisors of Salford Township. As used in this article, the term "Board" shall mean the Zoning Hearing Board. The terms of office shall be three years for Board members and three years for alternates and shall be so fixed that a member term shall expire each year. The terms of the alternates shall be so fixed that the terms shall expire in separate years, i.e., in the original appointment, one alternate shall be appointed for a two-year term and the other alternate shall be appointed for a three-year term. Members may succeed themselves. The Board shall promptly notify the Board of Supervisors wherever any vacancies occur, and the Board of Supervisors shall thereupon appoint a resident of the Township to serve for the unexpired portion of the term. Members of the Board and alternates shall hold no other office in the Township, and no member of the Board or alternate may also be a member of the Planning Commission.

- B. When by reason of absence or disqualification one or more members is unavailable for a hearing, the Chairman of the Board shall designate one or both alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- C. Members of the Board shall receive such compensation as may be fixed by the Board of Supervisors for the performance of their duties as members of the Zoning Hearing Board. Alternate members of the Board may receive compensation, as may be fixed by the Board of Supervisors, for the performance of their duties when designated as alternate members pursuant to Subsection B above. Both with respect to members and alternate members, the compensation paid to members or alternate members shall not exceed the rate of compensation authorized to be paid to members of the Board of Supervisors.
- D. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Subsection C above unless designated as a voting alternate member pursuant to Subsection B above.
- E. Any member of the Board or alternate 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 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 or alternate shall request it in writing.

SECTION 402. Organization; quorum; rules; annual report.

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the three-member Board, which may include a designated alternate member or members. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf. The decision or, where no decision is called for, the findings shall be made by the 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. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth. The Board

shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors once a year.

SECTION 403. Hearings.

The Board shall meet on an as needed basis to hear and consider all such matters which shall properly come before it. When scheduling a hearing, the appropriate time shall be afforded to ensure appropriate review of the application by the Township. All such meetings shall be open to the public.

SECTION 404. Technical Assistance.

The Board, in considering any matter within its jurisdiction, may consider at the hearing, testimony from the Salford Township Planning Commission, the Montgomery County Planning Commission or any other specialist or groups of specialists having expert knowledge of the matter under consideration. Any other party to the hearing, including the applicant, shall have the right to cross examine such testimony.

SECTION 405. Manner of initiating action.

All action before the Board shall be initiated by a written application for hearing which shall be filed with the Zoning Officer at least three weeks prior to the meeting at which the particular matter is to be heard, with a copy to the Board of Supervisors and Township Planning Commission. All applications shall be made on forms specified by the Board of Supervisors, and no application form shall be accepted unless the same shall be fully and legibly completed and unless all exhibits and supplemental material required by the application shall be attached and until all fees required under this chapter shall have been paid.

SECTION 406. Time limitations.

All appeals from the Zoning Officer shall be filed within 30-days following the refusal of the Zoning Officer to grant a zoning permit.

SECTION 407. Notice of hearing.

A. Notice of the time and place of all hearings shall be given by the Secretary of the Zoning Hearing Board as follows:

(1) By publishing a notice thereof once a week for two successive weeks before the date fixed for the hearing in a newspaper of general circulation in the Township. The first publication shall not be more than 30-days and the second publication shall not be fewer than seven days from the date of the hearing.

(2) By mailing a notice thereof to the parties in interest.

- (3) By mailing a notice to the Township Secretary and to each member of the Board of Supervisors.
- (4) By mailing a notice thereof to every resident or association of residents of the Township who shall have registered their names and addresses, in writing, for this purpose, provided that each registrant requesting such notice agrees to pay a fee in the sum of \$1 for each notice mailed, due and payable upon mailing.
- (5) By mailing or delivering a notice thereof to the owner, if his residence is known, or to the occupier of every abutting lot on the same street and every lot directly across the street from the lot or building in question, provided that failure to give notice required by this Subsection A(5) shall not invalidate any action taken by the Board.
- (6) By conspicuously posting written notice of the hearing on the affected tract of land at least one week prior to the hearing. The applicant shall submit a photograph at the hearing of said posting.

B. The notice herein required shall state the location of the lot or building and the general nature of the question involved.

SECTION 408. Parties.

The parties to the hearings shall be the municipality, any person affected by the application who has made timely appearance of record before the Board and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose at the hearing.

SECTION 409. Witnesses.

The Chairman of the Board, the hearing officer, if one is designated, or, in the absence of both, the member of the Board presiding at the hearing shall have the 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.

SECTION 410. Representation.

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues.

SECTION 411. Advisory Review.

Upon the filing of any Township zoning application, the Township Board of Supervisors, Solicitor, and Planning Commission shall be provided a copy of the application and other information as provided by the Applicant and/or Zoning Officer. The Planning Commission may review the application and, at its election, provide the Board an advisory opinion prior to the hearing. If an advisory opinion is made to the Board, it shall also be forwarded to the Township and applicant. Upon receipt of the advisory opinion, the Township may elect to issue a position letter to the Board--supporting, opposing, or remaining neutral to the application.

SECTION 413. Rules of evidence.

Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

SECTION 414. Record of proceedings.

The Board shall keep a stenographic record of the proceedings with copies of graphic or written material received in evidence. This documentation shall be made available to any party at cost.

SECTION 415. Communications.

The Board shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate. In addition, the Board 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 his representative unless all parties are given an opportunity to be present. The term "Board," as used herein, shall include not only the members but also any secretary, clerk, legal counsel or consultant to the Board.

SECTION 416. Decisions.

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 after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, Editor's Note: See 53 P.S. § 10101 *et seq.* other statutes 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. Where the Board has power to render a decision and the Board or

the hearing officer, as the case may be, fails to render the same within the period required by this clause, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing or on record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Section 407. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

SECTION 417. Copies of decisions.

A copy of the final decision or, when no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the decision. 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.

SECTION 418. Appeals to the courts.

Appeals may be taken to the court by any party aggrieved, filed not later than 30-days after notice of report or decision of the Board is issued.

SECTION 419. Expiration of permits, special exceptions and variances.

Unless otherwise specified by the Board or provided by law, a permit, special exception or variance shall expire if the applicant fails to obtain a zoning permit or a use and occupancy permit, as the case may be, within 18-months from the date of granting thereof. Further, within 18-months from the date of issuance of a zoning permit or a use and occupancy permit by the Zoning Officer or the granting of a permit, special exception or variance by the Board, substantial construction of the proposed building, addition or alteration or such other activity as was contemplated or appropriate under the permit or order of the Board must be completed or taken; otherwise, said permit, special exception or variance shall expire and the land or building which was the subject of the permit issued by the Zoning Officer by the order of the Board shall revert to its former status.

SECTION 420. Appeals from Zoning Officer.

The Board shall hear and decide appeals from the determination of the Zoning Officer, including but not limited to interpretations, the granting or denial of any permit or failure to act on the application therefore, the issuance of any cease-and-desist order or the registration or refusal to

register any nonconforming use, structure or lot. These appeals must be filed within 30-days of the date the decision is rendered by the Zoning Officer, and all appeals shall be on forms prescribed by the Zoning Hearing Board, accompanied by the requisite fees. All appeals shall refer to the specific provisions of this chapter involved.

SECTION 421. Challenging validity of ordinances.

The Board may hear substantive challenges to the validity of any land use ordinance, in accord with the Pennsylvania Municipalities Planning Code, as amended.

SECTION 422. Variances.

A. The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the appellant. The Board may grant a variance, provided that the following findings are made where relevant in a given case:

- (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 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 this 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 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.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this chapter.

SECTION 423. Special exceptions.

The Board shall hear and decide requests for special exceptions to the terms of this chapter in such cases as are expressly provided for in this chapter. In granting a special exception, the Board may attach such reasonable conditions and safeguards in addition to those expressed in this chapter as it may deem necessary to implement the purpose of this section and this Zoning Ordinance. Where, in this chapter, additional standards are set forth for a particular use that may be requested for a special exception, then the Board shall consider whether the request meets those standards in addition to the standards set forth in this section. In deciding all applications for special exceptions, the Board shall be guided by the following criteria and standards:

- A. The proposed use is one permitted by special exception.
- B. The proposed use is permitted, and it will conform to the applicable regulations of the district in which it is located or any district regulations which may relate to or apply to the use, including but not limited to setbacks, building coverage, open space and buffering. The Board is allowed to require alternative physical solutions other than those requested by the applicant, such as a revised site layout, setbacks, parking, driveways, etc.
- C. The proposed use will conform to the regulations applicable according to use and/or district, including but not limited to regulations contained in Article XIX, Off-Street Parking and Loading; Article XX, Nonconforming Uses; and Article XXI, Miscellaneous Provisions.
- D. Points of vehicular access to the lot are provided at a distance from the intersections and other points of access and in number sufficient to prevent undue traffic hazards and obstruction to the movement of traffic.
- E. The location of the site with respect to the existing public roads giving access to it is such that the safe capacity of the public roads is not exceeded by the estimated traffic attracted or generated by the proposed use, and the traffic generated or attracted is not out of character with the normal traffic using said public roads.
- F. A determination that the proposed use will not have an unwarranted impact on traffic in the area, either creating significant additional congestion in an area of existing congestion or posing a threat of significant additional congestion where there is a high probability of future congestion. In addition, the Board shall consider whether the proposed use will create any traffic hazard dangerous to the public safety.

- G. Screening of the proposed use from adjacent uses is sufficient to prevent the deleterious impact of the uses upon each other, considering the type, dimension and character of the screening.
- H. The suitability of the property for the proposed use.
- I. The proposed use not adversely affect or contradict the Comprehensive Plan of the municipality or the Indian Valley Regional Comprehensive Plan.
- J. The general purpose and intent of this chapter.
- K. The Board will be guided by sound subdivision practice, sound land use planning and the preservation and conservation of natural resources.
- L. The suitability of the proposed use to the character of the neighborhood and the uses of the surrounding properties.
- M. The proposed use will not impair an adequate supply of light and air to adjacent property.
- N. The proposed use will not adversely affect the public health, safety or general welfare.
- O. The proposed use will not adversely affect transportation or unduly burden water, sewer, school, park or other public facilities.
- P. The presence or absence of protestants against the proposed use shall not be dispositive, but the Board may weigh such presence or absence of protestants as evidence of the effect that the proposed use may be deemed to have.
- Q. The proposed use shall not overcrowd land or create undue concentration of population or undue intensity of use.

SECTION 424. Other appeals.

The Zoning Hearing Board shall hear and determine the following:

- A. Appeals from a decision by a Municipal Engineer or Zoning Officer regarding floodplains.
- B. Appeals from the decision of a Municipal Engineer or Zoning Officer regarding sedimentation and erosion control and stormwater management, insofar as the same relate to development not involving subdivision, land development or cluster development applications.

SECTION 2. Amendment/Modification.

The Board of Supervisors does hereby reserve the right, from time to time, to adopt amendments or modifications to this Ordinance.

SECTION 3. Repeal and Ratification.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the ordinances of the Township that are unaffected by this Ordinance are hereby reaffirmed and ratified.

SECTION 4. Severability.

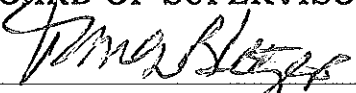
Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

SECTION 5. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 1st October day of September 2014, by the Salford Township Board of Supervisors.

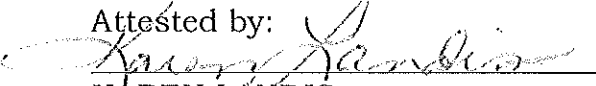
SALFORD TOWNSHIP
BOARD OF SUPERVISORS



JAMES STYER, *Chairperson*

[Seal]

Attested by:



KAREN LANDIS
Secretary