

Primer on Zoning Issues

What is the Zoning Code?

Philadelphia's Zoning Code is a set of regulations regarding the following issues:

1. Dimensional issues:

- a. the height, number of stories, and size of buildings
- b. required open spaces and percentage of the lot that may be occupied
- c. the density of population

2. Use issues:

Regulation of the location, use and occupancy of buildings, structures and land, so that all of the City's needs are accounted for, with minimal conflict between uses that may not easily coexist if they are located too close to each other.

The Zoning Code was enacted for the purpose of promoting the health, safety, order and general welfare of the community. It is a tool to help implement the Comprehensive Plan for the City approved by the City Planning Commission. The Code is enacted by City Council, and it defines the rules for various Residential, Commercial and Industrial Districts defined in the Comprehensive Plan.

The Zoning Code deals only with issues of size, location and use. It is not concerned with architectural or design issues, and design considerations are beyond the scope of the Zoning Board's review.

Why is there a Zoning Board?

Although the Zoning Code is a very good tool, and provides clear and fair guidance in most cases, it cannot anticipate every unique or unusual circumstance. The Zoning Board is the safety valve to address those circumstances where literal enforcement would produce what is called an "unnecessary hardship", an especially severe restriction unintended by the Code. In most cases, the Zoning Board is authorized to grant a variance only if, because of some unique characteristic of the property, the Code produces a greater negative impact on one property compared to its impact on other similar properties in the neighborhood.

Appeal to the Zoning Board : the Variance Request

A property owner submits a Building or Use Permit application to the Department of Licenses & Inspections. A Code Examiner reviews the application to see if it complies with the size, location, and use restrictions for the district in which the property is located. If everything complies, L&I can issue the Building or Use Permit over-the-counter. There is no need to go to the Zoning Board.

If the application does not meet all of the requirements, L&I is not authorized to issue the permit. Instead, L&I issues a Notice of Refusal to the owner, listing the reasons why the application does not comply with the Code. If the owner feels the permit should be granted because of unique circumstances at his property, the owner can appeal the refusal, and the matter will be placed on the Zoning Board schedule.

Referrals to the Zoning Board : Certificate Cases

Not everything that comes before the Zoning Board involves a request for a variance. The Zoning Board also considers certificate cases. These usually involve certain types of businesses that are allowed in the district, but that may have a negative impact on the neighborhood in certain circumstances. Although the requested use is allowed, L&I is not allowed to automatically issue the permit. Instead, the Code Examiner issues a Referral, which brings the matter to the Zoning Board for review. The use is presumptively allowed, and the applicant only needs to show that the proposed use is within the provisions of the zoning ordinance. The certificate will be granted, unless objectors present convincing evidence that the use would be injurious to the public health, safety and welfare.

Why Do We Have Neighborhood Zoning Meetings?

Neighborhood zoning meetings are not required by the Zoning Code, but the Zoning Board has generally been reluctant to hear a case unless the matter has been discussed at the neighborhood level. This practice adds a considerable burden of time to any property owner who appeals a matter to the Board.

A well-conducted neighborhood zoning meeting does several things:

- Provides the property owner an opportunity to explain the reason for requesting a variance from the code requirements or for a use certificate.
- Keeps neighbors informed about changes in the neighborhood.
- Provides an opportunity to air concerns about specific projects, including specific objections to a variance from the code requirements or objections to a use certificate.
- Provides an opportunity to air concerns about overall neighborhood development trends.

The SOSNA zoning committee has developed guidelines to achieve these goals and to provide a fair forum for all parties. Refer to the written guidelines for additional information about the local process.

How Does the Zoning Board Make its Decision?

The Zoning Board must evaluate each case according to the guidelines in Sections 14-1802 through 14-1804 of the Code. Most of the zoning issues in our neighborhood involve either variances or certificates. Here is what the Board must consider:

a. Variances

Burden of proof:	The property owner must prove that the Code imposes unnecessary hardship, arising out of unique characteristics of the property.
Evidence Required:	The owner must present evidence of a unique hardship, and the evidence must be substantial, serious, and compelling. Lack of community objections is not sufficient grounds to allow the Board to grant a variance. Evidence of unique hardship is absolutely required.

b. Certificates

Burden of proof:	For the owner: Owner only needs to provide sufficient information to show that the proposed use is appropriate for approval in the particular zoning district.
Burden of proof:	For objectors: Objectors must present convincing evidence that the use would be injurious to the public health, safety and welfare.
Evidence required:	If the owner satisfies the minimal requirements above, the certificate will be granted unless objectors have presented convincing evidence that it should not be granted.

Should I Go to the Zoning Board Hearing?

If you object to a variance or certificate, the only way you can be sure your voice will be heard is by going to the official Zoning Board Hearing and speaking up. Look through the criteria in sections 14-1802 through 14-1804 of the Code, and be prepared to be as specific as possible about how those criteria have not been satisfied. If you believe the request is contrary to the public health, safety and welfare, state your reasons as specifically as you can. If it is a matter that you care about, attending the Zoning Board Hearing is the only way you preserve your options to challenge a Zoning Board decision.

More Information

Philadelphia Zoning Code:	www.phila.gov Title 14, Philadelphia Code
Zoning Board Schedule:	www.phila.gov/li
Zoning Board Hearings:	held at 1515 Arch Street, 18 th Floor usually Tuesday mornings and Wednesday afternoons

Nothing in this document should be construed as legal advice. This information is intended as an introduction to the zoning process. You are encouraged to consult appropriate resources for more information, particularly Title 14 of the Philadelphia Zoning Code.