

ORDINANCE NO. 66 2002

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWNSHIP OF UPPER BERN TO REVISE REQUIREMENTS FOR LANDOWNER CURATIVE AMENDMENTS, ZONING HEARING BOARD HEARINGS AND ZONING MAP CHANGES.

WHEREAS, the Pennsylvania legislature, by and through Act 2 of 2002, enacted certain changes to the Pennsylvania Municipalities Planning Code (which is formally known as the Act of July 31, 1968 (P.L. 805, No. 247); and

WHEREAS, the above-referenced changes to the Municipalities Planning Code are to take effect on April 11, 2002; and

WHEREAS, the Board of Supervisors of the Township of Upper Bern deems it necessary to implement certain changes to its Zoning Ordinance in order to comply with the changes mandated by Act 2 of 2002.

NOW, THEREFORE, be and it is hereby resolved by the Board of Supervisors of the Township of Upper Bern, Berks County, Pennsylvania, as follows:

SECTION 1: Revised Notice Requirements for Zoning Map Changes:

Section 302(B) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to add after the word "Ordinance" in line 9 thereof the words: "and in Section 609(b) of the Pennsylvania Municipalities Planning Code, as amended."

SECTION 2: Procedure For Landowner Curative Amendments:

A. Section 1108.1(B) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to state: "The Board of Supervisors shall commence the first hearing within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty five (45) days of the prior hearing, unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for judicial relief. The hearing(s) shall be completed no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas."

B. Section 1108.1(D) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to add the following language to the end thereof: ", provided, however, that the deemed approval provisions of Section 908 shall not apply and the provisions of Section 916.1 of the MPC, 53 P.S. § 10916.1, shall control."

SECTION 3: Revisions to Rules for Zoning Hearing Board Hearings:

A. Section 1106.1(C) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to state: "The first hearing shall be commenced within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty five (45) days of the prior hearing, unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress

of the hearings may apply to the Court of Common Pleas for judicial relief. The hearing(s) shall be completed no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas."

B. Section 1106.1(D) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to add the words "or an independent attorney" after the word "member" in line 2.

C. Section 1106.1(K) of the Zoning Ordinance of the Township of Upper Bern is hereby amended to replace the fifth sentence thereof (beginning with the words "Where the Board") with the words: "Where the board fails to render the decision within the period required by this subsection, fails to commence the required hearing within sixty (60) days from the date of the applicant's request for a hearing or fails to complete the hearing within one hundred (100) days after the completion of the applicant's case in chief, 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 or such period has been extended for good cause upon application to the Court of Common Pleas."

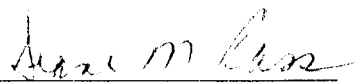
SECTION 4: Further Amendments to Zoning Ordinance: Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed except as provided for in this Ordinance. However, it is expressly provided that the provisions of this Ordinance shall not affect the validity of and shall be construed consistently with the Zoning Ordinance of the Township of Upper Bern, as amended. If there is a conflict, the more restrictive provision shall control.

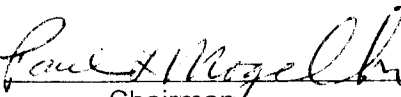
SECTION 5: Severability: Should any clause, section or other part of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, then the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6: Effective Date: This Ordinance shall become effective immediately upon adoption by the Township Council of the Township of Upper Bern.

ATTEST:

BOARD OF SUPERVISORS OF THE TOWNSHIP
OF UPPER BERN, PENNSYLVANIA


Secretary

By:  7/10/02
Chairman