

16. Motion for

17. Resolution

18. Resolution

19. Resolution

20. Resolution

21. Section 8.224

22. Resolution

23. Resolution

the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end, shall have all powers of the Zoning Officer from whom the appeal is taken.

Refiling of Disapproved or Withdrawn Cases

If a case is disapproved by the Board, thereafter the Board shall take no further action on another case for substantially the same proposal on the same property, until one year after the date of such disapproval. If a case before the Board is advertised, and thereafter withdrawn by the applicant before or at the meeting of the Board, he shall be precluded from filing another application for substantially the same proposal on the same premises for six months.

**8.23 Filing**

The Board may require the applicant to furnish such information as it deems necessary, when filing an application or appeal, and may require specific forms to be used.

### 8.3 Hearings

8.31 Upon filing of an appeal or application, the Board shall fix a time and place for a hearing, and give due notice as follows:

#### 8.311 Public Notice

"Public Notice", notice given not more than ten (10) days and not less than seven (7) days in advance of any public hearing required by Act 247, Pennsylvania Municipalities Planning Code. Such notice shall be published once in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Such notice shall also be conspicuously posted on the affected tract of land.

8.312 The hearings of the Board shall be public. However, the Board may go into executive session.

#### 8.313 Adjourned Hearings

Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper



to be served upon such other property owners as it decides may be substantially interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides, provided the Board publicly states the date of hearing at the time, otherwise they shall be notified.

#### 8.314

##### Decisions of the Board

The Board shall decide all applications and appeals within 45 days after the final hearing thereon. Notice of decision shall be given to all parties so requesting. The Board's decision shall be binding on the Zoning Officer, and he shall incorporate the terms and conditions of the same in any permit issued. If the Board does not render its decision within 45 days of the final hearing, it shall be deemed that the Board has decided in favor of the party making the request.

#### 8.4 Powers and Limitations of Powers of the Board

##### 8.41 Administrative Review

The Board shall have the power to hear and decide appeals where it is alleged there is

error in any order, requirement, decision or determination made by an administrative official, made in the enforcement of the Zoning Ordinance.

## 8.42 Special Exceptions

### 8.421 Special Exceptions Listed Previously

The Board shall have the power to hear and decide requests for special exceptions set forth in this Ordinance as follows: Articles 2.061, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.09, 4.11, 4.132, 6.1423, 6.1431, 6.152 and 7.1. In considering an application for special exception, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a special exception, the Board may impose such requirements and conditions with regard to location, construction, maintenance, and operation in addition to those expressly stipulated in this Ordinance for the particular special exception - as the Board may deem necessary for the protection of adjacent properties and the public interest.



8.422

Temporary Uses and Permits

In addition to permitting the special exceptions heretofore specified, the Board shall have authority to hear and decide on requests for temporary structures and uses in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Ordinance for the district in which it is located, provided that such use be of temporary nature which does not involve the erection of a substantial structure. Any request for such structure or use, when approved, shall be granted in the form of a temporary and revocable permit, for not more than a 12 month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

8.43

Interpretations of the Zoning Map

Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property and after public hearing, shall interpret the

map in such a way as to carry out the intent and purpose of this Ordinance. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board who, after a public hearing, shall decide all questions of interpretation and shall make findings on all relevant issues of fact, which shall become part of the record on appeal to Court.

**8.44 Variances**

On an appeal from an order, requirement, decision or determination of the Zoning Officer, or any other administrative officer or agency, the Board may grant a variance in the application of the provisions of the Zoning Ordinance only if all of the following findings are made: (except for industrial variances, where a substantial number of persons will be employed or retained where more flexibility may be exercised).

- 8.441 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
- 8.5 Court Review  
Any persons, decision of



peculiar to the particular property,  
and that the unnecessary hardship is  
due to such conditions, and not to  
circumstances or conditions generally  
created by the provisions of the  
Zoning Ordinance in the neighborhood  
or district in which the property is  
located.

8.442

That because of such physical cir-  
cumstances 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.

8.443

That such unnecessary hardship has not  
been created by the applicant.

8.444

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.

8.445

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. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

8.45

Specific Limitations of Powers of the Board

8.451

The Board does not have the power to amend any zoning ordinance, to rezone any land, to declare this Zoning Ordinance or any amendment thereto invalid, or to allow any use not permitted by this Zoning Ordinance.

8.452

The fact that a property owner will suffer financial hardship if not granted a special exception or a variance from the Zoning Ordinance, is of itself insufficient ground for granting a variance.

8.5  
8.5

Court Review

Any persons, jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer,



department, board or bureau of the Borough of Plymouth  
may present to the court of common pleas of the  
County a petition, duly verified, setting forth that  
such decision is illegal, in whole or in part,  
specifying the grounds of the illegality. Such a  
petition shall be presented to the court within 30  
days after the filing of the decision in the office  
of the Board.

ARTICLE 9 - ADMINISTRATION AND ENFORCEMENT

9.1 Administration

9.11 Zoning Officer

The provisions of this Ordinance shall be administered by a Zoning Officer, the office of which is hereby established.

9.111 Duties

The duties of the Zoning Officer shall be:

9.1111 To receive and check all applications for zoning permits and certificates of occupancy.

9.1112 To issue zoning permits and certificates of occupancy only for construction and uses which are in accordance with the regulations of this Ordinance and subsequent amendments; or through Board or Court approval.

9.1113 To record and file all applications for zoning permits and certificates of occupancy together with accompanying plans and documents and keep them for public record.



9.1114 To prepare a complete list of all non-conforming uses and structures existing at the time of adoption of this Ordinance. This list shall be maintained up to date and shall be used in review of building and zoning permits. This list shall be available to the public.

9.1115 The Zoning Officer shall issue certificates of occupancy for nonconforming uses. He shall examine them periodically to determine that they do not expand beyond the limitations prescribed in the Ordinance.

9.1116 Upon specific request of the Commission or Board, to furnish such facts, records and similar information, which will assist such body in reaching its decision.

9.1117 To be responsible for keeping this Ordinance including the Zoning Map, up to date, and to include any amendments thereto.

9.1118 If the Zoning Officer shall find that any provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or prevent violation of its provisions.

9.2 Zoning Permits and Certificates of Occupancy

9.21 Zoning Permits

9.211 A Zoning permit shall be required prior to the erection, construction, moving or alteration of any building, structure or portion thereof.

9.212 Applications for zoning permits shall be made in writing to the Zoning Officer and shall contain all information



necessary to ascertain whether the proposed erection, construction, alteration or use complies with the provisions of this Ordinance including the following:

9.2121 Plan in duplicate drawn to scale indicating:

9.21211 Actual dimensions and shape of the lot to be built upon.

9.21212 Exact size and location on the lot of all buildings and other structures, if any, and the location and dimensions of proposed buildings and other structures or alterations.

9.21213 Existing and proposed uses, showing the number of families the building is designed to accommodate.

9.213 Applications for zoning permits shall be granted or refused within 15 days from date of application. One copy of the plans shall be returned to the applicant marked either approved or disapproved and attested to same by the signature of the Zoning Officer. The second copy of the plans, similarly marked, shall be filed in the office of the Zoning Officer.



**FILE COPY**

ORDINANCE NO. 1 - 1996

**ORDINANCE**

**AN ORDINANCE OF THE BOROUGH OF PLYMOUTH AMENDING SECTION 9.22, CERTIFICATES OF OCCUPANCY, SUBSECTION 9.221 OF THE ZONING ORDINANCE FOR PLYMOUTH BOROUGH, LUZERNE COUNTY, PENNSYLVANIA, ADOPTED JULY 10, 1979, AS AMENDED.**

**WHEREAS**, there have been a number of situations, wherein land, buildings or other types of structures or portions thereof have changed occupants; and

**WHEREAS**, the aforementioned land, buildings or structures had previously been issued Occupancy Permits for the use; and

**WHEREAS**, these Permits were issued many years prior to the re-occupancy of the land, building or structure; and

**WHEREAS**, on the re-occupancy, of the structure, building or land, it has come to the attention of Borough officials that in many cases the premises involved no longer meets Code requirements of the Borough, although the premises subject to the Certificate of Occupancy previously approved, met and complied with the applicable ordinances when the Permit was initially issued; and

**WHEREAS**, over time, the premises, land, building or structure that no longer comply with the current applicable Code provisions in effect in the Borough, have become safety hazards; and

**WHEREAS**, in the interest of insuring that the health and safety of new or future occupants of the aforesaid premises is protected, after the initial Certificate of Occupancy Permit has been issued, then the Borough is desirous of inspecting the premises prior to re-occupancy.

**NOW, THEREFORE**, the Borough of Plymouth does hereby amend the Borough Zoning Ordinance that was adopted on July 10, 1979, as amended, as hereinafter specified.

**BE IT ENACTED AND ORDAINED** by the Borough of Plymouth, Luzerne County, Pennsylvania and it is hereby enacted and ordained by the authority of the same that 9.22 - Certificates of Occupancy, Subsection 9.221, is hereby amended, as follows:

**9.22 - CERTIFICATES OF OCCUPANCY**

**9.221**

**A Certificate of Occupancy shall be required to be obtained by each occupant prior to the occupation for use or change of use of land, building or**



structure, or any portion thereof. This requirement shall apply to each new occupant notwithstanding the fact that a previous occupancy certificate was issued to another person, entity or individual.

All Ordinances and parts thereof inconsistent with this Ordinance are hereby and shall be repealed.

This Ordinance shall become effective immediately upon compliance with all requirements of the Borough Code pertaining to the adoption of an Ordinance.

Advertised on the 25<sup>th</sup> day of March, 1996.

Approved by a vote of Council on april 9, 1996.

PLYMOUTH BOROUGH

  
THOMAS MCTAGUE, Chairman of  
the Plymouth Borough Council

ATTEST:

  
DOROTHY WOODRUFF,  
Secretary

Dated: 4/9/96

And now, this 9<sup>th</sup> day of april, 1996, this Ordinance is hereby approved by the Mayor.

  
STANLEY PETROSKY, Mayor  
Plymouth Borough



9.22 Certificates of Occupancy

9.221 A certificate of occupancy shall be required prior to the occupation for use or change of use of land, building or structure.

9.222 Application for a certificate of occupancy shall be made in writing to the Zoning Officer.

9.2221 When use of premises involves a new building or structure, or alterations to an existing building or structure, such application shall be made at the same time application for a zoning permit is made.

9.2222 When no construction or alteration is involved, application to occupy and use land may be made at any time. Such application shall contain all information necessary for the Zoning Officer to determine whether the proposed occupation and use of land conforms to the provisions of this Ordinance.

9.2223 An application for a certificate of occupancy shall be granted or

refused within 15 days after the Zoning Officer has been officially notified of a) completion of construction, or b) application to occupy and use land where no construction is involved.

**9.3     Enforcement**

This Ordinance shall be enforced by the Zoning Officer of Plymouth. No permit or certificate of occupancy provided for in this Ordinance shall be granted by him for any purpose except in compliance with the provisions of this Ordinance, or with a decision of the Board or the courts.

**9.4     Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint stating fully the causes and basis thereof, which shall be filed with Zoning Officer. He shall acknowledge such complaint, immediately investigate, and take action thereon as provided in this Ordinance.

**9.5     Fees**

Fees for permits and administration of the provisions of this Ordinance shall be established by Resolution.



## 9.6 Enforcement

### 9.61 Enforcement Penalties

Any person, partnership or corporation who or which shall violate provisions of this Zoning Ordinance shall be prosecuted under the provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, No. 247, as amended, Article VI, Section 616, which provides; "Any person, partnership or corporation who or which shall violate the provisions of any zoning ordinance enacted under this act or prior enabling laws, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than five hundred dollars (\$500). In default of payment of the fine, such person, the members of such partnership, or the officer of such corporation shall be liable to imprisonment for not more than sixty (60) days. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated."

9.62 Enforcement Remedies

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this ordinance, the Borough Council of Plymouth Borough or the Zoning Officer of Plymouth Borough or the Borough Solicitor, in addition to other remedies, may institute in the name of Plymouth Borough, any appropriate action of proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation, as further provided by said Pennsylvania Municipalities Planning Code, Article VI. Section 617.



## ARTICLE 10 - AMENDMENTS TO MAP OR TEXT

### 10.1 General

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Borough Council by Ordinance, may after receipt of recommendation thereon from the Borough Planning Commission and County Planning Commission, and subject to the procedures provided by law-amend, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Ordinance or amendments thereof. Amendments, supplements, changes or appeals to this ordinance may be initiated by the Borough Planning Commission, Borough Council or a Land owner through the curative amendment procedure.

### 10.2 Procedure for Change in Zoning District

#### 10.21 Applications:

Applications for any change in the text of the Zoning Ordinance or of district boundaries or classifications of property shown on the Zoning Map, shall be submitted to the Zoning Officer upon such forms and accompanied by such data and information as may be prescribed for that purpose by him, so as to assure the fullest practicable presentations of facts for the record. Each application for a change of