

PORTAGE TOWNSHIP
DRIVEWAY ORDINANCE 3 -2011

AN ORDINANCE REGULATING THE CONSTRUCTION OF DRIVEWAYS IN PORTAGE TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA, AUTHORIZING THE ISSUANCE OF PERMITS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the purpose of this Ordinance is to amend Ordinance Number 4-2010.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Portage Township, Cambria County, Pennsylvania as follows:

SECTION 1 - PERMIT REQUIRED

1. Before any private driveway may be constructed, a permit shall be obtained from Portage Township. Any person, firm or corporation desiring to establish or construct an entrance onto a public road of the Township shall file with the Staff of Portage Township a written application for the establishment thereof. Such application shall show compliance with the standards set forth herein. It is declared that the adoption of this Ordinance, and the requirements set forth herein, are necessary for the protection, benefit and preservation of the health, safety and welfare of the general public of the Township.
2. When an existing driveway is to be modified or improved, a permit shall be obtained from Portage Township prior to the commencement of any work. Said existing driveway shall satisfy all requirements of this Ordinance, including, but not limited to, compliance with Section 6.1 of this Ordinance. Any modification or improvement, including, but not limited to, increase in the size of the existing driveway or change in the direction of stormwater runoff, shall meet the storage and runoff requirements outlined in the Portage Township Stormwater Management Ordinance. If necessary, a collection system shall be installed at the entrance of the driveway to prohibit runoff from entering into/onto the public right-of-way or into/onto the public roadway. A "modified" or "improved" driveway shall include paving, widening, reconstructing, and/or alteration of any type or nature that modifies, alters or changes, however slightly, the surface of the driveway, and/or the quality and/or quantity of the stormwater runoff.

SECTION 2 - FEE

All Applications for Driveway permits shall be accompanied by a fee paid to the Township in the amount of \$55.00. This fee may be modified by the Board of Supervisors hereafter by Resolution.

SECTION 3 - DEFINITIONS

Driveway - A private drive providing access between a public or private street or access drive and a parking area, garage, or carport for a single unit of occupancy, one single-family or two-family dwelling, a farm, a business, or land development; which shall comply with any other Ordinance regulating the placement and/or construction of driveways that may be enacted. A shared driveway is a single driveway serving two adjoining lots that meet minimum road frontage requirements

Access Drive - A public or private drive, other than a driveway, providing vehicular access between a public street and a tract of land containing any use other than one single-family or two-family dwelling.

Person - Any natural person, firm, partnership, association, corporation, or other legal entity.

SECTION 4 - DRIVEWAYS

1. All single-family and two-family dwelling driveways shall conform to the following:
 - a. The number of driveways may not exceed one per lot. Two driveways may be permitted, at the discretion of the Township Board of Supervisors, on a lot which contains a minimum two hundred (200') feet of road frontage.
 - b. Driveways on corner lots shall be located at least forty feet (40') from the point of intersection of the nearest street right-of-way and shall gain access from the street of lower classification when a corner lot is bounded by streets of two different classifications.
 - c. Either edge of a driveway may be no closer than:
 - i. Forty feet (40') from the right-of-way line of an intersecting street on the same side of the street;
 - ii. Five feet (5') from an existing or proposed fire hydrant;
 - iii. Three (3') feet from a side property line;
 - iv. Twenty-five feet (25') from another driveway on same property.
 - d. Driveways accessing a state highway are allowed only by virtue of a permit issued by the Pennsylvania Department of Transportation and no development will be approved without such permit.
 - e. Driveways shall not be less than ten feet (10') feet or more than twenty-five (25') feet wide from the street right-of-way to the point at which the driveway intersects with the street cartway. The drive may not exceed a slope of seven percent (7%) onto the Township right-of-way
 - f. Entrances should be rounded at a minimum radius of five feet (5'), or should have a flare construction that is equivalent to the radius at the point of intersection with the cartway edge.
 - g. A fifty foot (50') clear sight triangle shall be provided for each driveway. Obstructions or plantings shall not be greater than three feet (3') in height nor extend lower than seven feet (7') in the clear sight triangle area. Where the clear sight triangle extends outside of a public right-of-way, an easement shall be provided to encompass the entire clear sight triangle.
 - h. The safe sight stopping distance at each driveway shall not be less than the distances found in PennDOT Publication 282, as amended. See attached Appendix I for calculation forms.
 - i. Residential single-family and single-family attached dwellings may utilize driveways as part of required parking, up to a total of two spaces.
 - j. The cartway of all driveways located within the Township right-of-way shall be constructed with a minimum of six (6) inches PennDOT No. 2A aggregate.

2. Any driveway which will provide access to more than one residence must meet the design requirements of this chapter and the objectives of the development must warrant the use of a shared driveway. Additionally, applications that propose a shared driveway must include an agreement that will be recorded with the Cambria County Recorder of Deeds in conjunction with the final plan. This agreement shall stipulate the following:
 - a. The total number of lots being served by the proposed driveway. A shared driveway may provide access to a maximum of four (4) residential units.
 - b. Shared driveways shall be centered within a thirty-three foot (33') right-of-way which will grant access across neighboring properties.
 - c. Shared driveways shall not be less than sixteen (16) feet wide and shall meet the remaining design criteria required by Section 4.1 above.
 - d. No shared driveways shall be permitted to access off any cul-de-sac or any equal type of turnaround.
 - e. The method of assessing maintenance and repair costs to the owners of adjacent lots.
 - f. That an agreement by the owners of a set percentage of the frontage is binding on the remaining lot owners.
 - g. Any future offer of dedication will include whole streets and adequate circulation.
 - h. When a new lot is created, which will utilize an existing driveway that pre-exists the effective date of this Ordinance, the existing driveway shall be improved and provide a sixteen foot (16') clear pathway with a minimum twelve foot (12') wide cartway. The cartway shall be constructed of a minimum six inches (6") of PennDOT 2A Stone.
 - i. When an existing lot is built upon, which will utilize an existing driveway that pre-exists the effective date of this Ordinance, the existing driveway shall be improved and provide a sixteen foot (16') clear pathway with a minimum twelve foot (12') wide cartway. The cartway shall be constructed of a minimum six inches (6") of PennDOT 2A Stone.
 - j. The following note shall be included on all subdivision and land development plans proposing the use of shared driveways:
 - i. The owners of lots _____ agree and understand that " _____ Drive" is a private driveway and as such are responsible for maintenance, care, improvements, and snow removal at their own diligence and expense. Further, if at any time in the future, the property owners adjacent to this drive desire to dedicate said drive to Municipal ownership, then such owners shall be required at their own expense to improve said road to meet the public road and street specifications of the Township in place at such time. The maintenance and use of said shared driveway shall be in accordance with the shared driveway maintenance and use agreement recorded in Deed Book _____ Page _____ of the Cambria County Recorder of Deeds Office."

SECTION 5 - ACCESS DRIVES

All proposed access drives shall conform to the following:

1. Except as specified elsewhere, the number of access drives intersecting with each street shall not exceed two (2) per lot. The Township Board of Supervisors may grant a waiver for additional access points where required to meet exceptional circumstances and where frontage of unusual length exists.
2. All access drives shall be set back at least:
 - a. One hundred feet (100') from the intersection of any street right-of-way lines; and
 - b. One hundred feet (100') from any other access drives or driveways located upon the same lot (measured from cartway edges); and
 - c. One hundred feet (100') from any other access drives or driveways on adjacent lots;
 - d. Fifteen feet (15') from any side and/or rear property lines; however, this setback can be waived along one property line when a joint parking lot is shared by adjoining uses.
3. Access drives entering a state highway are allowed only by virtue of a permit issued by the Pennsylvania Department of Transportation and no development will be approved without such permit.
4. A fifty foot (50') clear sight triangle shall be provided for each access drive. Obstructions or plantings shall not be greater than three feet (3') in height nor extend lower than seven feet (7') in the clear sight triangle area. Where the clear sight triangle extends outside of a public right-of-way, an easement shall be provided to encompass the entire clear sight triangle.
5. The safe sight stopping distance at each driveway shall not be less than the distances found in PennDOT Publication 282, as amended.
6. Access drives shall provide a twelve-foot-wide cartway for each lane of travel. However, in no case shall any access drive cartway be less than 18 feet wide. See table below for further explanation:

NUMBER OF LANES	DIRECTION OF TRAVEL	REQUIRED ACCESS DRIVE WIDTH
1	One-way	18 feet
2	One- or two-way	24 feet
3 or more	One- or two-way	12 feet/lane

7. The cartway of all access drives shall be constructed to Township Local Street Standards specified in the Township Subdivision and Land Development Ordinance.

SECTION 6 - DRAINAGE REQUIREMENTS

The following drainage requirements must be met for each proposed access onto a Township Road:

1. Drainage of driveways shall be designed and engineered in accordance with provisions of the Portage Township Stormwater Management (SWM) Ordinance in effect or hereinafter adopted.
2. An Erosion and Sedimentation Control Plan shall be created for driveway construction in accordance with Township and County Conservation District requirements.

3. Stormwater shall not discharge from any driveway or access drive onto a Township Road. If necessary, SWM structures may be incorporated into the design of the driveway to collect runoff prior to entering the roadway.
4. If a roadside swale exists or is required due to the proposed construction, it shall be adequately sized to handle the stormwater flowing to the pipe. At a minimum, the pipe shall be twelve inches (12") in diameter, shall be smooth lined corrugated plastic pipe (SLCPP), and shall be provided with cover adequate to meet the manufacturer's specifications.
5. When stormwater discharge, washing, or other conditions created by existing driveways or field roads becomes a potential hazard to a public road, the Township Board of Supervisors shall notify the owner(s) of the property and through which the driveway passes of such condition(s). Any property owner failing to correct a hazardous situation immediately (within 24 hours or less) upon notification shall be subject to the penalty of this ordinance and shall be liable for any costs incurred by Portage Township to eliminate such hazard. Problems of a non-emergency nature shall be corrected in thirty (30) days.

SECTION 7 - PERMIT IMPLEMENTATION REQUIREMENTS

The following requirements describe the general standards for requesting and implementing a driveway construction permit:

1. Permit Period: The Driveway Construction Permit is effective for 18 months from the date of issuance. Driveways not completed by this time must have a new permit to continue construction.
2. Driveway Inspection: The holder of the Driveway Construction Permit shall notify the Township Permit Officer within 30 days of completion of the construction. Within 30 days of notification, the Township Permit Officer shall conduct an inspection of the driveway to ensure full compliance with all the provisions of this Ordinance.
3. Building Permits: No Building Permits for new residential construction shall be issued until a Driveway Construction Permit has been approved.
4. Access for Agricultural Use: This ordinance does not address or regulate access from a Township Road to agricultural land by agricultural implements and related equipment. No driveway permit is required for entry for agricultural purposes into a field or woods that border a Township Road. However, Section 5.E of this Ordinance, would apply regarding damage or obstruction to a public road or right-of-way.

SECTION 8 - CORRECTION OF IMPROPER WORK

In case any person, firm or corporation shall construct a driveway and shall not conform to the requirements of this article, the Township Staff may order such person, firm or corporation to remove the improper work and replace the same in compliance with this article. Notice to remove and replace improper work shall be given by registered or certified mail and shall state that the person, firm or corporation shall have 10 days from receipt of the notice to comply therewith. Upon noncompliance, the municipality may do or cause the requested repairs to be done and may levy the cost of its work on such owner as a property lien to be collected in any manner provided by law.

SECTION 9 - APPEALS

1. Any "person" who is denied a driveway permit or who disagrees with the instruction of the Township may appeal said decision directly to the Board of Supervisors.
2. Any "person" aggrieved by any determination or action by the Township shall have an opportunity file an appeal and request a hearing to present and explain its position before the Township Board of Supervisors. Any and all decisions and/or determinations by the Township Board of Supervisors may be appealed to the Court of Common Pleas of Cambria County, and all appeals are *de novo*, unless the Township has provided for the production of a stenographic record of the hearing. Any such request to be heard by the Township Board of Supervisors shall be in writing on forms provided by the Township and shall include a complete statement of the reasons the person is aggrieved together with a written statement of all evidence to be provided to the Township Board of Supervisors. The factual basis or summary of any expert testimony that will be presented at such meeting of the Township Board of Supervisors must also be attached to the form provided by the Township. Failure to file the Appeal to request the opportunity to present evidence to the Township Board of Supervisors under this paragraph within thirty (30) days from the date of the determination or action by the Township (i.e. the denial of the driveway permit) will result in the waiver of any right to Appeal to request an opportunity to present evidence to the Board of Supervisors and appeal to the Court of Common Pleas. The person requesting an opportunity to be heard under this paragraph must provide written notice of the same to all property owners and tenants occupying property within 500 feet of the boundaries of the property upon which the driveway will be located. Proof of service of such notice by Certified Mail or notarized Affidavit of hand delivery must be provided with the form provided by the Township.
3. The Appeal to the Board of Supervisors shall be accompanied by a fee of \$250.00. Appellant shall be responsible for all costs of the appeal in excess of \$250.00. Failure to file a complete appeal together with all statements may result in dismissal of the appeal.
4. Within sixty (60) days of receipt of any Appeal in writing by the Applicant(s)/Property Owner of the denial of a request for driveway permit, the Board of Supervisors of Portage Township shall conduct a public hearing on such request, subject to public notice pursuant to the terms of the Pennsylvania Municipalities Planning Code. Following such public hearing, the Board of Supervisors may accept or reject all or any part of such Appeal and grant a "Variance" from the terms of this Ordinance consistent with same, conditioned upon the fact that the Variance shall not create a safety issue or endanger the public health, welfare or safety. The decision of the Board of Supervisors shall be in writing and transmitted to the parties to such Agreement within forty-five (45) days of the public bearing. The failure of the Board of Supervisors to conduct such hearing within sixty (60) days of the date of receipt of such Appeal or to issue a written decision within forty-five days following same, shall result in a deemed decision in favor of the Applicant(s)/Property Owner to such agreement and such permit shall be "deemed approved" in its entirety. The written Decision by the Board of Supervisors shall contain any other reasonable conditions imposed by the Board of Supervisors relating to such driveway permit.
5. Any party aggrieved by the determination of the Board of Supervisors made pursuant to this Ordinance may appeal such determination to the Court of Common Pleas of Cambria

County, Pennsylvania, pursuant to the terms of the Pennsylvania Municipalities Planning Code.

SECTION 10 - VIOLATIONS AND PENALTIES

1. Any person, firm or corporation who shall fail to obtain a permit before constructing a private driveway continues the maintenance of conduct declare to be a public nuisance or who fails to take remedies to abate said nuisance when directed to do so, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.
2. In the event that any person shall maintain a nuisance as heretofore defined, the Township upon determining that such nuisance exists or is being maintained, at its option may proceed singly or severally as follows:
 - a. Commence a summary proceeding to collect the penalty as provided under the Township's Nuisance Ordinance and as referenced above.
 - b. Order the termination of the nuisance or the removal or abatement of the dangerous condition, improvement or excavation by causing written notice to be served personally or by registered or certified mail upon the owner or any occupant of said premises, or upon any agent of the owner or if the identity or whereabouts of the owner be unknown and there is no occupant, by posting the notice conspicuously upon the offending premises. The notice shall specify the condition complained of and shall require the owner to commence corrective action as therein set forth within ten days and to complete such corrective action fully within a reasonable time thereafter. If appropriate, the Township may require the corrective action to be fully completed within the ten day notice period.
 - c. Should any person cause or permit the continuation of a public nuisance without the commencement of corrective action within ten (10) days from the date of the receipt of the notice specified herein, or if such person shall fail to proceed to complete the corrective action within the time specified in the notice, the Township may cause the removal, correction or abatement of the public nuisance by such means as shall appear necessary to the Township. The Township shall in such event, where necessary, have the right and power to enter into the offending premises to accomplish the foregoing.
 - d. Upon finding that creation and maintenance of any of the above activities or conditions is a nuisance in fact, as the welfare of the Township residents warrants, the Township shall give the actor, owner, lessee or occupant of the property upon which said nuisance is located (1) notice to immediately cease and desist from said activity or to immediately abate or terminate said condition or (2) at their option the Township shall give any person permitting the maintenance of such a nuisance, at least ten (10) days notice to completely remove, repair or abate the same. Said notice shall be sent by certified mail, return receipt requested, may be delivered in person, or may be posted upon the premises if said person, owner, lessee or occupant of the property cannot be found. In the event the owner or occupant shall fail to remove,

correct or abate any nuisance under the terms of this ordinance, and the Township shall have expended money to remove, correct and abate the same, the Township may recover the costs thereof from the owner or occupant of such ground or property together with a penalty of fifteen per cent (15%) of such costs in the manner provided by law for the collection of municipal claims or by Action of Assumpsit.

- e. In lieu of removal, correction or abatement of any nuisance by the Township, the Township may, whenever the Township deems it appropriate, institute proceedings in the Courts of Equity to compel the removal, correction or abatement of such conditions, and to seek such other relief as the said Court is empowered to afford.

SECTION 11 - SEVERABLE PROVISIONS

It is the intent of the Municipality that the provisions of this Ordinance are severable and the invalidity of any Section, subsection, clause or provision of this Ordinance shall not affect or impair the validity of any other part of this Ordinance which can be given effect without the invalid part or parts.

SECTION 12 - OFFICERS AUTHORIZED TO ACT The proper officers of the Municipality, as applicable, are authorized and directed to execute, to attest, to acknowledge and to deliver all documents, on behalf of this municipality, in the form so approved. Proper officers of this Municipality are authorized and directed to execute any and all documents and to do any and all other acts that may be necessary and proper to carry out this Ordinance and the undertakings of this municipality.

SECTION 13 - REPEALER

All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

SECTION 14 - EFFECTIVE IMMEDIATELY

This Ordinance shall become effective immediately, or as soon as legally permissible and shall remain in effect unless and until subsequently repealed or amended.

ORDAINED and ENACTED at a duly assembled public meeting by the Township of Portage, Cambria County, Pennsylvania this 2 day of March, 2011.

ATTEST:

By: Lisa Talyan
Secretary

PORTAGE TOWNSHIP

By: Edward Seligman
Supervisor

By: Robert L. Gault
Supervisor

By: _____
Supervisor

DRIVEWAY SIGHT DISTANCE MEASUREMENTS

(FOR LOCAL ROADS, USE PENNDOT PUB 70)

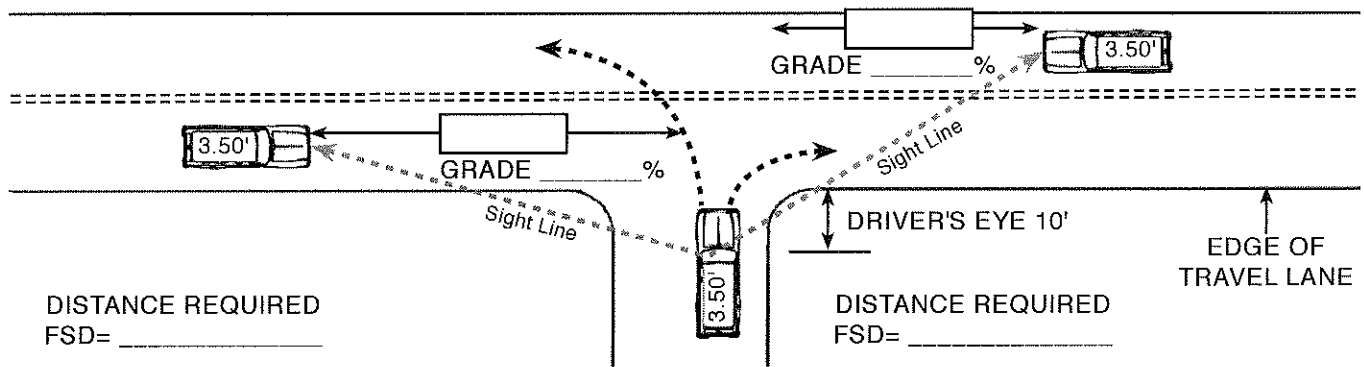
APPLICANT _____ APPLICATION NO. _____

S.R. _____ SEG. _____ OFFSET _____ LEGAL SPEED LIMIT _____

MEASURED BY _____ DATE _____

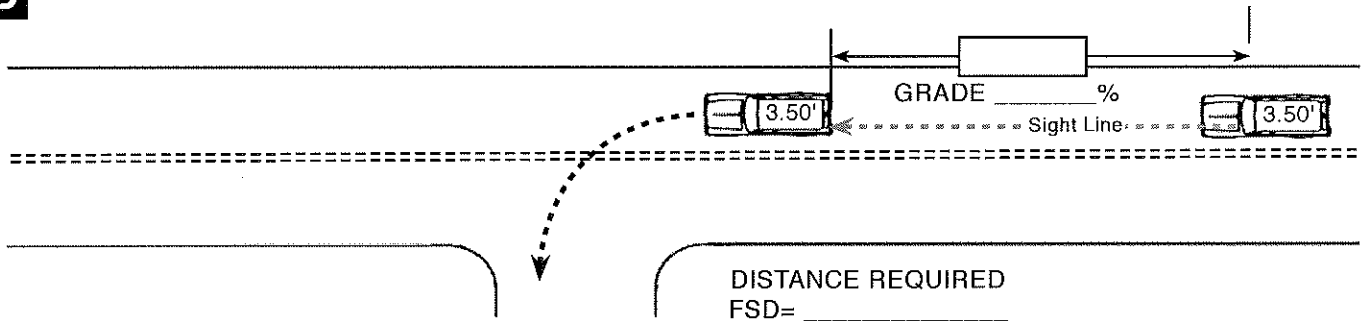
FOR DEPARTMENT USE ONLY: Safe-Running Speed _____ 85th Percentile Speed _____

A



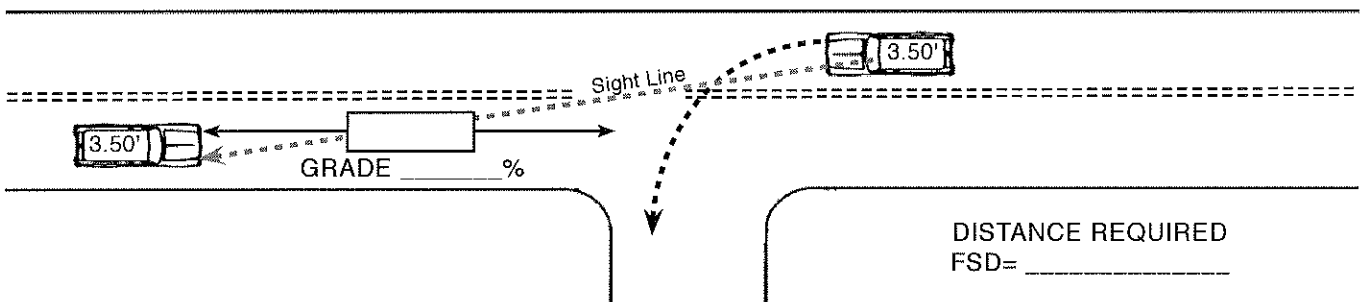
THE MAXIMUM LENGTH OF ROADWAY ALONG WHICH A DRIVER AT A DRIVEWAY LOCATION CAN CONTINUOUSLY SEE ANOTHER VEHICLE APPROACHING ON THE ROADWAY.

B



THE MAXIMUM LENGTH OF ROADWAY ALONG WHICH A DRIVER ON THE ROADWAY CAN CONTINUOUSLY SEE THE REAR OF A VEHICLE WHICH IS LOCATED IN THE DRIVER'S TRAVEL LANE AND WHICH IS POSITIONED TO MAKE A LEFT TURN INTO A DRIVEWAY.

C



THE MAXIMUM LENGTH OF ROADWAY ALONG WHICH A DRIVER OF A VEHICLE INTENDING TO MAKE A LEFT TURN INTO A DRIVEWAY CAN CONTINUOUSLY SEE A VEHICLE APPROACHING FROM THE OPPOSITE DIRECTION.

FORMULA SIGHT DISTANCE TABLE

Speed (V) (Miles Per Hour)	Average Grade (G) (Percent)											
	Use plus grades when approaching vehicle is travelling upgrade.											
	0.0	+1.0	+2.0	+3.0	+4.0	+5.0	+6.0	+7.0	+8.0	+9.0	+10.0	
25	147	145	144	143	142	140	139	138	137	136	135	
30	196	194	191	189	187	185	183	182	180	178	177	
35	249	245	242	239	236	233	231	228	226	224	221	
40	314	309	304	299	295	291	287	284	280	277	274	
45	383	376	370	364	358	353	348	343	339	334	330	
50	462	453	444	436	429	422	415	409	403	397	392	
55	538	527	517	508	499	490	482	475	468	461	454	
	Use negative grades when approaching vehicle is travelling downgrade.											
	0.0	-1.0	-2.0	-3.0	-4.0	-5.0	-6.0	-7.0	-8.0	-9.0	-10.0	
25	147	148	150	151	153	155	157	159	161	164	166	
30	196	199	201	204	207	210	214	217	221	226	230	
35	249	252	256	260	265	269	275	280	286	292	299	
40	314	319	325	331	338	345	352	360	369	379	389	
45	383	390	398	406	415	425	435	447	459	472	487	
50	462	471	481	492	504	517	531	546	563	581	600	
55	538	550	562	576	590	606	622	641	661	682	706	

**APPEAL OF DENIAL/CONDITIONS OF DRIVEWAY PERMIT
TO THE BOARD OF SUPERVISORS**

1. I, _____ (*print name*) hereby file an appeal and request a hearing to present and explain my position before the Township Board of Supervisors.

2. The proposed driveway is located at: _____

3. The Appellant is required to include a complete statement of the reasons the person is aggrieved together with a written statement of all evidence to be provided to the Township Board of Supervisors. The factual basis or summary of any expert testimony that will be presented at such meeting of the Township Board of Supervisors must also be attached to this appeal form. (*Please attach additional pages if necessary.*)

4. The person requesting an opportunity to be heard under this paragraph must provide written notice of the same to all property owners and tenants occupying property within 500 feet of the boundaries of the property upon which the driveway will be located. Proof of service of such notice by Certified Mail or notarized Affidavit of hand delivery must be provided with the form provided by the Township.

5. Please list the names and addresses of all property owners and tenants occupying property within 500 feet of the boundaries of the property upon which the driveway will be located:

6. The Appeal to the Board of Supervisors shall be accompanied by a fee of \$250.00. Appellant shall be responsible for all costs of the appeal in excess of \$250.00.

7. Failure to file a complete appeal together with all statements may result in dismissal of the appeal.

Date

Appellant/Property Owner