

**MOUNT LAUREL TOWNSHIP**  
**ZONING BOARD OF ADJUSTMENT**  
**RULES AND REGULATIONS**

**1. ORGANIZATION & ADMINISTRATION**

**1.1. Annual Organization; Elections; Meetings**

- 1.1-1. Organization Meeting. The Board shall convene a meeting on the second Wednesday of January in each year at 7:00 pm for the purpose of organizing the affairs of the Board for the calendar year. In the unlikely chance that the Township Council does not organize before this date, the organizational meeting shall be delayed to ensure that open seats are first filled by appointment at the Township Council's reorganization meeting.
- 1.1-2. Election of Officers. At the organization meeting, the Board shall elect from its members a Chair and Vice-Chair.
- 1.1-3. Board Attorney. Pursuant to the Chapter 4 of the Code of the Township of Mount Laurel, the Board shall annually appoint or reappoint an Attorney-At- Law of the State of New Jersey having recognized competence in the law of local governments, land use and zoning. The Board Attorney shall be compensated pursuant to agreement and shall be the legal advisor and representative of the Zoning Board. The Board Attorney shall prosecute and defend litigation and appeals on behalf of the Board.
- 1.1-4. Board Engineer. Pursuant to the Chapter 4 of the Code of the Township of Mount Laurel, the Board shall appoint or reappoint a licensed Professional Engineer (P.E.) of the State of New Jersey, who shall review and report on the engineering aspects of applications and other matters pending before the Board at the direction of the Board, and who shall attend the meetings of the Board unless otherwise restricted.
- 1.1-5. Board Traffic Engineer. Pursuant to the Chapter 4 of the Code of the Township of Mount Laurel, the Board may appoint or reappoint a licensed Professional Engineer (P.E.) or Planner (P.P.) of the State of New Jersey, who shall review and report on the traffic circulation and related matters of applications and other matters pending before the Board at the direction of the Board, and who shall attend the meetings of the Board unless otherwise restricted.
- 1.1-6. Board Planner. Pursuant to the Chapter 4 of the Code of the Township of Mount Laurel, the Board shall appoint or reappoint a licensed Professional Planner who shall, as the Board may direct, review and report on land use applications and other matters pending before the Board, and shall attend all Zoning Board meetings unless otherwise restricted.

- 1.1-7. Board Secretary and Assistant Secretary. The Board shall appoint a Secretary and an Assistant Secretary who shall provide administrative support to the Board as set forth in further detail below in these Rules and Regulations.
- 1.1-8. Other Assistance. The Board may also appoint or engage such other officers and/or assistants and engage such additional experts or staff as it may be necessary from time to time.

## **1.2. Election to Office & Duties.**

- 1.2-1. Vote to Elect; Term. A candidate receiving the majority vote of the entire membership of the Zoning Board shall be deemed elected to the office for which the vote was taken and shall serve for one year or until that office holder is re-elected or the office holder's successor shall take office. In the event an office shall become vacant in some factual manner, or by operation of law, the office shall be filled as soon as possible by the same election procedure and the term of such office shall be the unexpired term of the predecessor.
- 1.2-2. Chair. The Chair shall preside over all meetings and hearings of the board, decide, with the assistance of the Board Attorney, all points of order and matters of procedure governing said meetings or hearings, set agendas, dispense with meetings upon good cause, adjourn meetings and shall perform all the duties normally appertaining to the office of the Chair, as required by law, ordinance these rules or prevailing parliamentary practice.
- 1.2-3. Vice-Chair. The Vice-Chair shall preside at all Board Meetings and hearings in the absence or upon disqualification of the Chair and shall have all of the powers of the Chair under such circumstances.
- 1.2-4. Secretary. The Secretary shall generally perform the administrative work of the Board, including, but not limited to the following:
- (a) Conduct all official correspondence, compile all required records, keep and maintain all necessary files and indexes with respect to the operation of the Board, cause all notices of meetings required to be given pursuant to the *Open Public Meeting Act, Municipal Land Use Law* or any other applicable law or ordinance;
  - (b) Attend all meetings of the Board, take and have custody of all records and documents, maps, plans and evidence, and provide for the care and custody of items for which no other provision is made by statute or these rules; take or direct the taking of roll call votes, and insure the recordation of affirmative and negative votes as well as abstentions;
  - (c) Cause a verbatim record of the proceedings of each hearing of the Board in accordance with these rules, keep minutes of the proceedings of each meeting (including work sessions) held by the Board and enter therein such resolutions

and orders as are adopted by the Board;

(d) Cause to be mailed or otherwise delivered or made available to each member of the Board and the professional consultants to the Board true copies of the minutes and all other documents and materials pertaining to the business of the Board;

1.2-5. Alternate Secretary. The Alternate Secretary shall generally perform the secretarial work of the Board in the absence or disqualification of the Secretary and shall have all of the powers of the Secretary under such circumstances.

### **1.3. Meetings.**

1.3-1. Regular Meetings. Meetings of the Zoning Board shall be held at the Township Building at 7:00 pm on the first Wednesday of each month unless an alternate schedule is adopted by the Board at the organization meeting. If a regular meeting falls on a legal holiday, such meeting shall be held on the next succeeding secular day or such other day as the Board may select.

1.3-2. Special Meeting. When the Board is not in session, special meetings of the Board may be called by the Chair or, in the absence of the Chair, by the Vice-Chair, provided that notice thereof be mailed or e- mailed or given to each member of the Board and to the public as required by or allowed by law. An applicant may request, but shall not be entitled to a special meeting. When the Board is in session, special meetings at the request of an applicant may be scheduled at the pleasure of the Board, provided the public interest is fairly and reasonably served. The applicant shall be responsible for all fees and costs related thereto.

1.3-3. Cancellation of Meeting. The Chair may dispense with the holding of a meeting if no business requiring action at that meeting shall have been set on the agenda, or due to inclement weather, or for other good cause. The Board Secretary shall provide notice of cancellation to the Board members and shall post the cancellation on the Township's web-page and at the Township's administrative building.

1.3-4. Quorum. At all meetings of the Board, a quorum to conduct any business of the Board not involving a variance request pursuant to N.J.S.A. 40:55D-70(d)1-6, shall consist of four (4) qualified members. A quorum to conduct any business of the Board involving a variance request pursuant to N.J.S.A. 40:55D-70(d)1-6 shall consist of five (5) qualified members. In the absence of a quorum, the members present may convene a meeting only for the purpose of adjourning the same to another date. No hearing may proceed without a qualified quorum of the Board for that particular hearing.

1.3-5. Open Meetings. Except as otherwise provided in these rules and regulations, the meetings of the Board shall be open to the public at all times. Nothing herein shall be construed to limit the discretion of the Board to permit, prohibit or regulate the active participation of the public at any meeting. The Board may not exclude the public only from any portion of a meeting except pursuant to the exclusions provided

under *N.J.S.A. 10:4-12b*, *N.J.S.A. 40:55D-9b* or as otherwise may be provided by State law.

1.3-6. Order of Business. Subject to the discretion of the Chair to the contrary, the order of business for all regular sessions of the Board shall be as follows:

- (a) call to order;
- (b) statement of compliance with the Open Public Meeting Act;
- (c) roll call;
- (d) adoption of resolutions;
- (e) swearing in of professionals;
- (f) approval of minutes of prior meeting;
- (g) motions for adjournment of any scheduled cases and any other motions;
- (h) old business (continued hearings);
- (i) new business (new hearings);
- (j) adjournment.

1.3-7. Time Limitations. The Board shall be under no obligation to consider new matters after 10:00 pm, and, it will take no new testimony beyond 11:00pm. This rule may be waived by an affirmative vote by a majority of the Board members then present and qualified.

1.3-8. Parliamentary Procedure. *Roberts Rules of Order*, latest edition, shall be used as guidance by the Chair and the Board Attorney, whenever a particular procedure or practice is not contemplated by these rules. Failure to strictly adhere to Roberts Rules of Order shall not be a cause to nullify any action taken by the majority of the members voting.

#### **1.4. Standard Procedures and Requirements for Remote Meetings.**

##### 1.4-1. In-Person Meetings

Unless otherwise authorized by the Board or required by law, the Board's meetings shall be in-person. The Board's meetings shall be held at the Mount Laurel Township Building or at such other location as the Board may from time to time deem appropriate. In the event that good cause is shown to protect the health, safety, and welfare of the Board's Members, Staff, and Professionals, Applicants and the Public, the Board may allow an individual to participate at an in-person meeting via remote means, subject to the requirements and limitations of the Open Public Meetings Act, N.J.S.A 10:4-6 et seq..

##### 1.4-2. Remote Meetings Because of a Declared Emergency

In the event that a remote meeting is required by a declared emergency as defined under N.J.A.C. 5:39-1. *et seq.*, then such meetings shall comply with the Emergency Remote Meeting Protocol for Local Public Bodies as provided for by N.J.A.C. 5:39-1 *et seq.* and any amendment thereto created by Executive Order.

### 1.4-3. Public Comment.

- (a) A member of the public wishing to speak during a meeting shall state their name and address for the record prior to making their comment.
- (b) Members of the public wishing to make a comment and/or cross-examine a witness related to an application being heard by the Board during a remote meeting shall be permitted to do.
- (c) Comments from individual members of the public shall be limited to five (5) minutes in length unless otherwise permitted by the Chair.
- (d) Members of the public commenting during a meeting shall not act in any manner to disrupt the meeting. If such a member of the public becomes disruptive during the meeting, the Chair may refuse to allow that member of the public to continue to make comments or speak during the hearing and may take such measures as may be required to conduct an orderly hearing. Disruptive conduct includes, but is not limited to, sustained inappropriate behaviors such as shouting, interruption, and the use of profanity.

## **2. PROCEDURES**

### **2.1. Applications & Hearings.**

- 2.1-1. Administration of Applications; Completeness. In accordance with the Zoning Ordinance of Mount Laurel, the Board shall consider applications for development. Upon a determination made by Board's appointed professionals and the Township's staff that an application is complete, and that all fees, escrows and costs have been paid in full, the Board Secretary shall advise the applicant and the Board Chair that the application has been deemed to be complete. In the event that an application is deemed incomplete, the Board's professionals shall and/or the Board's Secretary shall advise the applicant in writing of the deficiencies in the application. Upon a determination of completeness, the Board's Secretary, in consultation with the Board's Chair, shall determine the hearing date and notify the applicant, the Board Attorney, Board Professionals, and the Board Members.
- 2.1-2. Filings of Exhibits & Documents. At least fourteen (14) business days prior to the time appointed for the hearing, the applicant must submit the required exhibits and documents, as defined in the Zoning Ordinance of the Mount Laurel Township, to the Zoning Board Secretary.
- 2.1-3. Transmittals; Hearing Materials. At least three (3) calendar days prior to the hearing, the meeting agenda, the Board Professional's reports, appropriate maps, exhibits, and documents for member viewing purposes including directions to and address of the site in question will be transmitted to Zoning Board members.

### **2.2. Hearing Procedure.**

- 2.2-1. Appearance by Parties. At the time of the hearing on an application, the applicant shall appear in person, or such person may appear by Attorney-At-Law admitted to practice in the State of New Jersey. No Corporation shall be heard except through

legal counsel.

2.2-2. Testimony Under Oath. All persons giving testimony at a hearing shall be duly sworn by the Chair or the Board Attorney.

2.2-3. Order of Presentation. Each application shall be considered in accordance with the following order of presentation:

- (a) The applicant shall enter an appearance on the record and be duly sworn. If the applicant is represented by counsel, the attorney shall enter an appearance, identifying the name and location of the attorney's law firm, identifying the client who is represented, and shall then proceed to make opening remarks.
- (b) The applicant shall then present testimony and such other evidence, depicted, documentary or otherwise, upon which the applicant intends to rely in order to establish a basis for the relief sought.
- (c) At the conclusion of a witness's testimony, the Chair shall allow the members and Board Professionals to ask questions of such witness. Cross examination of witnesses shall generally be limited to questions by the Board.
- (d) At the conclusion of the presentation of the application, any interested member of the public may ask questions and present a case for or against the application in such order as may be recognized by the Chair. All such presentations shall be limited to five minutes per presenter, except as allowed by the Chair. The Chair shall have the right to cause any interested party to be first duly sworn and shall do so whenever an interested party will offer facts on which the Board would be expected to rely. All rebuttal testimony or evidence shall be considered in such order as the Chair shall designate. Relevant objections shall be considered by the Board. Cross-examination of witnesses shall be permitted by the Chair subject to the above provisions.
- (e) At the conclusion of the public's opportunity to ask questions and present a case, the Board may ask the Board's professionals to testify with regard to the Application.
- (f) Any member of the Board may place evidence before the Board as to any relevant matter of which that Board member has a personal or official knowledge for the purpose of amplifying the record, including facts as ascertained from a viewing of premises in question subject to these rules.
- (g) The Board shall have the right to rely on the expertise of its legal, engineering and planning consultants. The Board may also call as witnesses other municipal employees to testify as to particular facts pertinent to the application. The board shall also have the power to acquire additional evidence consistent with these rules and the Municipal Land Use Law (MLUL).

2.2-4. Continuances. A request to adjourn and continue a matter submitted to the Board while the Board is not in session shall be made in writing and shall, upon good

cause shown, shall be granted by the Chair and placed on the record at the next meeting along with an announcement that the matter has been carried to another date certain, which generally shall be the next regularly scheduled meeting, unless otherwise determined by the Board. A request to adjourn and continue a matter made while the Board is in session shall be considered by the Board and, upon good cause shown shall be granted along with an announcement that the matter has been carried to another date certain, which generally shall be the next regularly scheduled meeting, unless otherwise determined by the Board. Generally, no further notice shall be needed to be given by the applicant in that event if announcement of the specific date of the continued hearing is provided, unless the Board Chair determines that notice be given.

- 2.2-5. Refusal to Consent to Continuance. Where an applicant has taken a substantial period of time to present its case and then refuses to consent to a continuance so that objectors can be heard or the Board has insufficient opportunity to consider the matter, such refusal by the applicant may be deemed “arbitrary and unreasonable” by the Board. Should the applicant move the board to consider the matter without affording such opportunity, the applicant shall be at risk of a denial of the application for failure to sustain the burden of proof and failure to afford the Board an opportunity to reach an informed decision.
- 2.2-6. Testimony from Board-Employed & Other Expert Witnesses. The Board may require expert witnesses and reports. Experts shall be qualified to the satisfaction of the Board. In addition to experts for the applicant and others, the Board shall have the power to engage its own independent experts to either corroborate or refute the testimony of experts produced by the applicant or other party. The Board shall not be bound to accept the testimony of any expert. Where there is conflicting testimony of experts, the Board shall decide which to accept. These rules shall not be construed to require expert testimony in all instances to sustain a board finding. The Board may require its consultants to confer with the experts of the applicant and, where appropriate, the experts hired by objectors or the Board in order to expedite consideration of the application. These communications shall be permitted outside the context of public meetings and the applicant shall reimburse the Township for expenses incurred in having the experts participate in such communications.
- 2.2-7. Viewing by Board; Personal Knowledge of Board Members. Viewing the property that is the subject of the application shall be permitted upon reasonable notice to and consent of the parties. Members should view the property prior to the hearing. In that event, or in the event that one or more members of the Board are well acquainted with the subject property, knowledge thereby acquired of any particular fact or facts may be used in making a decision if such member or members establishes such facts on the record at the time of the hearing.
- 2.2-8. Evidence; Exhibits. The formal rules of evidence adopted by the courts of the State of New Jersey shall not be enforced in the proceedings of the Zoning Board of Mount Laurel. However, no decision shall be based upon any facts not proved or on matters which are not on the record unless they be such items of which the

Board is entitled to take judicial notice. The Board may limit hearsay, irrelevant, immaterial or redundant testimony.

- 2.2-9. Letters & Petitions of Objection. Letters of objection or support and petitions shall not be admissible, though the writer of a letter or the signer of a petition may appear and testify. If unable to attend, a licensed attorney in the State of New Jersey may appear on behalf of the absent public member.
- 2.2-10. Burden of Proof. The burden of proof is upon the applicant. It is the applicant's responsibility to supply competent and credible evidence in order that the Board might determine the nature and degree of the relief sought. The applicant must establish, to the Board's satisfaction, that pursuant to statutory and ordinance criteria, the applicant is entitled to the relief sought. In variance cases, the applicant bears the burden of proving both the positive and negative criteria as required by the Municipal Land Use Law.

### **2.3. Voting.**

- 2.3-1. Voting Procedure. All motions shall require a second. The Chair shall allow discussion on any motion made and duly seconded. Unless a vote is required by law to be taken by roll call, the Chair shall have the discretion to call either by unanimous consent or by roll call. In the event that a vote does not receive unanimous consent, then a roll call vote on the matter shall follow. For a roll call vote, the vote and name of the member casting the vote shall be recorded in the minutes. Unless otherwise provided herein or under prevailing law, any action may be authorized by majority of vote of those members present at such meeting.
- 2.3-2. Voting Margin & Effect. If a motion to approve an application for development fails to receive the number of required affirmative votes, such failure shall be deemed an action denying the application. If the vote is a tie, no majority exists and the motion is denied.
- 2.3-3. Abstentions. Abstentions are disfavored without good cause. A disqualified member shall not be counted as an abstention and shall, instead, remove themselves from the panel and not be involved in the consideration of the application.
- 2.3-4. Voting Eligibility; Review of Record. When any hearing before the Board has been continued, a member of the Board who was absent for one or more hearing sessions shall be eligible to vote on the matter upon which hearing is conducted notwithstanding the members prior absence provided that such member certifies in writing to the Board that the member has read a transcript or listened to a recording of the entire session for which the member was absent. This rule shall not be construed as authorizing any hearing to be held whenever less than a quorum of the Board is present.

### **2.4. Other Hearing Requirements & Procedures.**

- 2.4-1. Record of Proceedings. The record shall mean the application form, any exhibits or



other documents submitted to the Board in support thereof, maps, documents, exhibits, proper submissions by interested parties and the verbatim record of the hearings. Written communication between the Board Secretary and the applicant or the applicant's representatives, and the minutes of the meeting shall be considered to be both a summary of the record and part thereof.

- 2.4-2. Verbatim Record. The Board shall make available a verbatim record of the hearing to any interested party making the request in writing at the expense of the requesting party. If a party desire to have their own stenographer create a transcript of a meeting, the party shall provide the Board with a paper and electronic copy of that transcript at that party's expense.
- 2.4-3. Inability to Make Verbatim Record. If, at the time set for hearing, a verbatim record cannot be made for good reason, as where the recording equipment is inoperable, the Board shall, if time is not a factor, continue the hearing to another date. However, if time is a factor and all interested parties agree, the Board may proceed with the hearing on the understanding that in the event of an appeal or further review, an agreed statement of facts will be supplied to the reviewing body. In the absence of such an agreement, where time is a factor, the Board shall be entitled to deny the relief sought in order to prevent a statutory approval by reason of the Board's failure to make a decision in the required time.
- 2.4-4. Subpoenas; Contempt. The Chair and the Board Attorney shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relative evidence, including witnesses and documents presented by the parties. The provisions of the *County & Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq.* shall apply.
- 2.4-5. Dismissal Without Prejudice. The Board, on its own motion, may dismiss any action without prejudice if neither the applicant nor anyone on the applicant's behalf appears at the time set for the hearing of said application or for other good cause.
- 2.4-6. Amended Applications. An applicant may, prior to the commencement of a hearing, amend an application without leave of the Board and in all such cases new notice shall be given as in the case of the original application. After commencement of a hearing, application may be amended only with leave of the Board. If the amendment after commencement of hearing is for the purpose of reducing the nature or extent of the variance sought, no new notice will be required. Otherwise, new notice shall be given.
- 2.4-7. Time of Application Rule. Notwithstanding any provision of law to the contrary, those development regulations which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application for development. Any provisions of an ordinance, except those relating to health and public safety, that are adopted subsequent to the date of submission of an application for development, shall not be applicable to that application for development.

2.4-8. Conditions. The Board shall have the plenary power and discretion to impose conditions. The conditions shall be development-specific and predominantly aimed at mitigating specific concerns arising in connection with the proposed project. The right to impose conditions is an inherent power of the Board regardless of whether the ordinance grants such a right to the Board. To be enforceable, a condition must be part of the record. Conditions must not offend against any provision of the Zoning Ordinance, must be in the public interest, must be reasonably calculated to achieve a legitimate objective of the ordinance and shall not be unnecessarily burdensome to the applicant and/or owner.

2.4-9. Decision Based on Evidence. Each case shall be decided strictly upon the basis of the facts adduced at the hearing viewed in light of the statutory and ordinance requirements. The Board's function is to apply the facts adduced at the hearing, as determined by the Board, to the legal requirements of the statute and zoning ordinance and to decide on this basis whether or not the requested relief can be legally granted. The Board lacks the legal power to grant variances except in cases where the facts produced at the hearing demonstrate the applicant's right to the requested relief under the terms of the statute.

The Board shall include findings of facts and conclusions based thereon in each decision and shall reduce the decision to writing through a resolution adopted at a meeting held within the time period provide in the act for action on the application. A memorializing resolution can be adopted at a meeting held not later than forty-five (45) days after the date of the meeting at which the board voted to grant or deny approval. Only members of the Board who voted on the action taken may vote on the memorializing resolution.

2.4-10 Relaxation of Rules. These rules have been promulgated primarily to promote justice by providing for an ordered and efficient procedure. They may be relaxed by the Board whenever such relaxation promotes justice, provided however, that rules limiting the time within which an appeal may be taken may not be relaxed. Neither shall the time for decisions be enlarged unless consented to in writing by the Applicant and the Board.

2.4-11 Severability. Should any provision of these rules be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of these rules shall be unaffected thereby and shall continue to be valid and enforceable.

2.4-12. Amendment. These rules may be amended from time to time by an affirmative majority vote of the full membership of the Board.