

Chapter 14

LAND USE PROCEDURES

Sections:

- 14-010 **Planning Board.**
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the Planning Board and Zoning
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- 14-040 **Appeals.**
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14-010 **Planning Board.**

14-010.1 Establishment. There is established in the township, pursuant to R.S. 40:55D-1 et seq., the Municipal Land Use Law, a board of nine members, plus up to two alternate members, consisting of following classes:

Class I. The mayor.

Class II. One of the officials of the township other than a member of the township committee to be appointed by the mayor; provided, that if there be an environmental commission, the member of the environmental commission who is also a member of the planning board as required by R.S. 40:56A-1, shall be deemed to be the Class II planning board member for purposes of this act in the event that there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment and a member of the board of education.

Class III. A member of the township committee to be appointed by the township committee.

Class IV. Other citizens of the township, to be appointed by the mayor. The members of Class IV shall hold no other municipal office, position or employment, except that in the case of nine-member boards, one such member may be a member of the zoning board of adjustment or historic preservation commission. No member of the board of education may be a Class IV member of the planning board, except that in the case of a nine-member board, one Class IV member may be a member of the board of education. If there be a municipal environmental

commission, the member of the environmental commission who is also a member of the planning board, as required by R.S. 40:56A-1, shall be a Class IV planning board member, unless there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment or historic preservation commission and member of the board of education, in which case the member common to the planning board and municipal environmental commission shall be deemed a Class II member of the planning board. For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

Alternates. The mayor shall appoint not more than two alternate members. The alternate members shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of the appointment by the mayor as "Alternate No. 1" and "Alternate No. 2." Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate No. 1 shall vote. (Amended by Ord. 1990-7, § 1)

14-010.2 Terms. A. The term of the member composing Class I shall correspond to his official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the environmental commission. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first. The term of a Class IV member who is also a mem-

ber of the board of adjustment or board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, which ever occurs first. The terms of all Class IV members first appointed under this act shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided, that the initial Class IV term of no member shall exceed four years. Thereafter, the Class IV term of each such member shall be four years.

B. The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years.

C. All terms shall run from January 1 of the year in which the appointment was made. (Amended by Ord. 1990-7, § 2 (part))

14-010.3 Conflict of Interest. No member or alternate member of the planning board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. (Ord. 1990-7, § 2 (part))

14-010.4 Vacancies. If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

14-010.5 Removal. Any member or alternate member other than a Class I member, after a public hearing if he or she requests one, may be removed by the township committee for cause. Such "cause" shall include but not be limited to absence of a member from three consecutive regular meetings during one year except for illness or other justified reason. (Amended by Ord. 1990-7, § 3)

14-010-6 Organization of Board. The planning board shall elect a chairman and vice-chairman from

the members of Class IV and select a secretary who may be either a member of the planning board or a township employee designated by it.

14-010.7 Planning Board Attorney. There is created the office of planning board attorney. The planning board may annually appoint such attorney, who shall be licensed in the state of New Jersey, and who shall not be the township attorney. The planning board attorney shall receive such compensation as fixed by the planning board and shall not exceed the amount appropriated by the township committee for such purpose.

14-010.8 Experts and Staff. The planning board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the township committee for its use.

14-010.9 Powers and Duties Generally. The planning board shall be authorized to adopt bylaws governing its procedural operation. It shall also have the following powers and duties:

A. To make and adopt and from time to time amend a master plan for the physical development of the township, in accordance with the provisions of R.S. 40:55D-28.

B. To administer the provisions of the land subdivision and site plan ordinance of the township in accordance with the provisions of such ordinance and the municipal land use law.

C. To issue permits for conditional uses. The term "conditional use" shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards of the location or operation of such use as contained in the township zoning ordinance, as amended, and upon the issuance of an authorization therefor by the planning board. During the period that the reasonable interim zoning ordinance of the township is in effect, the term "conditional use" shall also mean "special exception" as that term is applied in such interim zon-

ing ordinance, and the powers delegated therein to the zoning board of adjustment shall instead be exercised by the planning board.

The planning board shall either issue or deny issuance of a conditional use permit within ninety-five days of submission of a complete application therefor, by a developer to the clerk, or within such further time as may be consented to by the applicant. The review by the planning board of a conditional use shall include any required site plan review. The time period for action by the planning board on conditional uses shall apply to such site plan review.

Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the clerk as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required.

D. To participate in the preparation and review of progress or plans required by state or federal law or regulation.

E. To assemble data on a continuing basis as part of a continuing planning process and to submit a report annually to the township committee thereon.

F. To annually prepare a program of township capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the township committee.

G. To consider and report to the township committee, within thirty-five days after referral, regarding any proposed development regulation submitted to it pursuant to the provisions of R.S. 40:55D-26(a), and also to pass upon other matters specifically referred to the planning board by the township committee or the zoning board of adjustment, pursuant to the provisions of R.S. 40:55D-26(b).

H. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant, to the same extent and subject to the same restrictions as the zoning board of adjustment:

1. Variances pursuant to R.S. 40:55D-70(c) from lot area, lot dimensional setback and yard require-

ments, provided that such relief from lot area requirements shall not be granted for more than one lot.

2. Direct, pursuant to R.S. 40:55D-34 the issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to R.S. 40:55D-32.

3. Direct, pursuant to R.S. 40:55D-36, the issuance of a permit for a building or structure not related to a street.

Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include a reference to the request for a variance or direction for issuance of a permit as the case may be.

I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the township committee for the aid and assistance of the township committee or other agencies or officers.

14-010.10 Time for Decisions. The planning board shall exercise its powers for the granting or denying of approval for minor or major subdivisions and for site plans in accordance with the time limitations set forth in Chapter XV. Additionally, whenever the planning board shall be called upon to exercise its ancillary powers before the granting of a variance, as set forth in paragraph 14-010.9(G), the planning board shall grant or deny approval of the application within ninety-five days after submission by the developer of a complete application, or within such further time as may be consented to by the applicant.

Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the board secretary as to the failure of the planning board to act shall be issued on request of the applicant.

14-010.11 Advisory Committee. The mayor may appoint one or more persons as a citizens advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or take other action required

**TOWNSHIP OF NORTH HANOVER
COUNTY OF BURLINGTON
ORDINANCE NO. 2008-05**

**AN ORDINANCE OF THE TOWNSHIP OF NORTH HANOVER AMENDING
ORDINANCE 2007-07, AMENDING CHAPTER 14, SECTION 14-010.15 OF THE
"REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF NORTH HANOVER,
1994."**

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of North Hanover that Ordinance 2007-07 amending Chapter 14, Section 14-010.15 of the Revised General Ordinances entitled "Land Development Checklist" is hereby amended to include the following new check list item, as follows:

SECTION 1. A. A new Item Number 66 shall be added to the Land Development Checklist described as follows:

66.	Proposed housing plan setting forth manner in which applicant shall meet Affordable Housing requirements required pursuant to 3 rd Round COAH rules and regulations.
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B. All applicants for General Development Plans, Preliminary Major Subdivisions and Preliminary Major Site Plans and Preliminary Site Plans shall be required to comply with this submission requirement.

SECTION 2. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. This ordinance shall take effect after its final passage and publication according to law.

NOTICE

The foregoing ordinance was finally adopted by the Township Committee of the Township of North Hanover on April 24, 2008 after a public hearing held at the Municipal Building on Schoolhouse Road in the Township of North Hanover, County of Burlington, State of New Jersey.



MONICA L. ZUR, RMC
Municipal Clerk

TOWNSHIP OF NORTH HANOVER
COUNTY OF BURLINGTON
ORDINANCE NO. 2007-07

AN ORDINANCE OF THE TOWNSHIP OF NORTH HANOVER AMENDING CHAPTER 14, SECTION 14-010.15 OF THE "REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF NORTH HANOVER, 1994."

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of North Hanover that Chapter 14, Section 14-010.15 of the Revised General Ordinances entitled "Checklist for Land Subdivision and Site Plan Review" is hereby amended read as follows [added portions are underlined; deleted portions have strikethrough]::

SECTION 1. ~~14-010.15 Checklist for Land Subdivision and Site Plan Review~~ Land Development Checklist . At the time the applicant is furnished with ~~the an~~ application for land ~~subdivision and/or site plan approval,~~ development in accordance with the provisions of the land development chapters, ~~he~~ the applicant shall be supplied with a checklist, in the form attached hereto as Exhibit "A," which is hereby adopted as the Township of North Hanover's official land development checklist. ~~The checklist shall which shall set forth the specific documents that are required to be filed at the time of the submission of the application.~~ Each checklist requirement shall be in accordance with the provisions of the land development chapters.

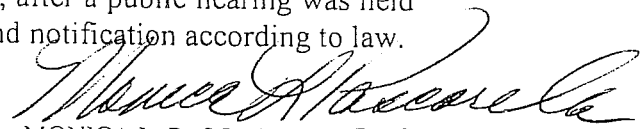
SECTION 2. The Item Description for Item number 45 on the checklist is hereby amended to read as follows: "Environmental Assessment – Ordinance 2005-06"

SECTION 3. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This ordinance shall take effect after its final passage and publication according to law.

NOTICE

The Ordinance entitled above was adopted by the Members of the North Hanover Township Committee, at a meeting held on June 7, 2007, after a public hearing was held on said date. It will become effective upon publication and notification according to law.


MONICA L. PASCARELLA, RMC
Municipal Clerk

of the board. Such person or persons shall serve at the pleasure of the mayor.

14-010.12 Information to Environmental Commission. Whenever the environmental commission has prepared and submitted to the planning board an index of the natural resources of the township, the planning board shall make available to the environmental commission an informational copy of every application for development to the planning board. Failure of the planning board to make such informational copy available to the environmental commission shall not invalidate any hearing or proceeding.

14-010.13 Rules and Regulations. The board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this section. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the county and the Municipal Investigations Law of 1953, R.S. 2A:67A-1, et seq. shall apply.

14-010.14 Subdivision Committee. There is hereby established a planning board subdivision committee, which shall consist of three members of the planning board appointed by the chairman, and which shall exercise such powers as established by ordinance.

14-010.15 Checklist for Land Subdivision and Site Plan Review. At the time the applicant is furnished with the application for land subdivision and/or site plan approval, he shall be supplied with a checklist which shall set forth the specific documents that are required to be filed at the time of the submission of the application. Each checklist requirement shall be in accordance with the provisions of the land development chapters.

14-010.16 Determination of Completeness of Application. An application for land subdivision and/or site plan review approval shall be complete for purposes of commencing the applicable time period for action by the planning board when so certified by the planning board or its authorized

committee or designee. In the event that the planning board or its authorized committee or designee does not certify the application to be complete within forty-five days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five day period for purposes of commencing the applicable time period unless the application lacks information indicated on the checklist set forth above which is provided to the applicant; and the planning board or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within forty-five days of the submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the planning board's authorized committee or designee shall grant or deny the request within forty-five days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The planning board may subsequently waive correction of any information found to be in error and require submission of additional information not specified in these chapters or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for the approval of the application have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents as required by the planning board.

14-020 Zoning Board of Adjustment.

14-020.1 Establishment; Composition. A. A zoning board of adjustment is established pursuant to R.S. 40:55D-69, et seq. The township committee shall appoint seven regular members and not more than two alternate members, all of whom are residents of the township. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2."

B. Regular members of the zoning board of adjustment shall serve for terms of four years from

January 1 of the year of their appointment. The terms of the regular members first appointed under this section shall be one for four years, one for three years and one for two years, as specified by township committee in the resolution of appointment. Thereafter the terms of each regular member shall be for four years. Nothing in this section shall, however, be construed to affect the term of any present regular member of the zoning board of adjustment, each of whom shall continue in office until the completion of the term for which he or she was appointed.

C. Alternate members of the zoning board of adjustment shall serve for terms of two years from January 1 of the year of their appointment, except that for the initial appointment of alternate members, one will serve a one-year term and one will serve a two-year term.

D. No member may hold any elective office or position under the township. No member of the board of adjustment shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he or she requests it, be removed by the township committee for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

E. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate No. 1 shall vote. (Amended by Ord. 1990-7, § 4)

14-020.2 Officers. The zoning board of adjustment shall elect a chairman and vice-chairman from its members and shall also select a secretary who may or may not be either a board member or another township employee.

14-020.3 Zoning Board of Adjustment Attorney. There is hereby created the office of attorney to the

zoning board of adjustment. The zoning board of adjustment may annually appoint the zoning board of adjustment attorney, who shall be an attorney licensed in the state of New Jersey and who shall not be the township attorney. The zoning board of adjustment shall fix the compensation or rate of compensation of the attorney in an amount not exceeding the amount appropriated by township committee for such purpose.

14-020.4 Experts and Staff. The zoning board of adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the township committee for its use.

14-020.5 Rules and Regulations. The board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this section. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the county and Municipal Investigations Law of 1953, R.S. 2A:67A-1, et seq., shall apply.

14-020.6 Powers of the Zoning Board of Adjustment. The zoning board of adjustment shall be authorized to adopt bylaws governing its procedural operation. It shall also have the following powers and duties:

A. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an official based on or made in the enforcement of the zoning ordinance.

B. Hear and decide requests for interpretation of the zoning map or zoning ordinance or for decision upon other special questions upon which the board is authorized to pass by the zoning ordinance or official map ordinance, if adopted.

C. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or physical features uniquely affecting a specific

piece of property or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to this zoning chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of such property, grant, upon an application or appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

Where in an application or appeal relating to a specific piece of property, the purposes of the zoning chapter would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from the regulations of the zoning chapter; provided, however, that no variance enumerated in subdivision D, set forth below, shall be granted under this subsection, and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board has power to review a request for a variance pursuant to the provisions of this chapter.

D. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to the zoning chapter to permit:

1. A use or principal structure in a district restricted against such use or principal structure.
2. An expansion of a nonconforming use.
3. Deviation from a specification or standard, pursuant to R.S. 40:55D-67, pertaining solely to a conditional use.
4. An increase in the permitted floor area ratio as defined in these chapters.
5. An increase in the permitted density, as defined in these chapters, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision. A variance under this subsection shall be granted only by the affirma-

tive vote of at least two-thirds of the full authorized membership of the board.

No variance or other relief may be granted under the provisions of subdivisions A through D of this subsection, unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Any application under any subsection of this section may be referred to an appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

E. Direct issuance of a permit pursuant to R.S. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the official map.

F. Direct issuance of a permit pursuant to R.S. 40:55D-36 for a building or structure not related to a street.

G. Grant, to the same extent and subject to the same restrictions as the planning board, subdivision or site plan approval or conditional use approval pursuant to R.S. 40:55D-67 whenever the board is reviewing an application for approval of a use variance.

14-020.7 Appeals and Applications. A. Appeals to the board of adjustment may be taken by an interested party affected by any decision of a township official based on or made in the enforcement of the zoning ordinance or official map. Each appeal shall be taken within sixty-five days by filing a notice of appeals with the official from whom the appeal was taken, together with three copies of such notice with the secretary of the board of adjustment. Such notice of appeal shall specify the grounds for the appeal. The official from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

B. Three copies of an application for the exercise of the board's power pursuant to paragraphs 14-020.6(B), (C), (D), (E), (F) or (G) shall be filed with the secretary of the zoning board of adjustment.

C. At the time of filing the appeal or application, the applicant shall also file all relevant plot plans, maps or other papers. The applicant shall obtain all necessary forms from the secretary of the zoning board of adjustment. The secretary of the board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the board.

D. An appeal shall stay the decision appealed from, unless the official from whose decision the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by an order of the Superior Court of New Jersey upon notice to the official from whom the appeal is taken and on due cause shown.

E. The board of adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from, and, to that end, have all the powers of the official from whom the appeal was taken.

14-020.8 Expiration of Variance. Any variance from the terms of the zoning ordinance granted by the board of adjustment, permitting the erection or alteration of any structure or structures or a specified use of any premises shall expire, unless such construction, alteration or use shall have been actually commenced on, or in, each and every structure permitted by such variance, within six months from the date of authorization by the board of adjustment and diligently pursued to completion. The running of this period shall be tolled from the date of filing an appeal from the decision of the board of adjustment to the township committee, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

14-020.9 Time for Decision. The board shall include findings of fact and conclusions based thereon in each decision on any application set forth

above and shall reduce the decision to writing. The board shall provide the findings and conclusions through:

A. A resolution adopted at a meeting held within the time period for action by the board on the application for development; or

B. A memorializing resolution adopted at a meeting held not later than forty-five days after the date of the meeting at which the board voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt a resolution. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, with those members voted against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be memorialization of the action of the board and not to be an action of the board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of mailings, filings and publications required by the ordinance and N.J.S.A. 40:55D-10. If the board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the board to reduce its findings and conclusions in writing within the stated time and the cost of the application, including attorney's fees, shall be assessed against the municipality. (Amended by Ord. 1985-2, § 2)

14-020.10 Conditional Approval. Whenever a review or approval of the application by the county planning board is required by R.S. 40:27-6.3, in the case of a subdivision, or R.S. 40:27-6.6, in the case of a site plan, the township board of adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by

the county planning board by its failure to report thereon within the required time.

An application under this section may be referred to any appropriate person or agency, including the planning board pursuant to paragraph 14-010.9G, for its report. Such reference shall not exceed the period of time within which the zoning board of adjustment shall act.

14-030 Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment.

14-030.1 Conflicts of Interest. No member of the planning board or zoning board of adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the board on the hearing of such matter nor participate in any discussion or decision relating thereto.

14-030.2 Meetings. A. Meetings of both the planning board and zoning board of adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process. Regular meetings of the planning board or zoning board of adjustment shall not be scheduled to conflict with the regularly scheduled meetings of the township committee, the planning board or the zoning board of adjustment.

B. Special meetings may be provided for at the call of the chairperson or on the request of any two board members, which meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.

C. No action shall be taken at any meeting without a quorum being present, which shall be defined as the majority of the full authorized membership of the board.

D. All actions shall be taken by majority vote of a quorum except as otherwise required by statute.

E. All regular meetings and all special meetings shall be open to the public. Notice of all such meet-

ings shall be given in accordance with the requirements of the Open Public Meetings Act. An executive session for the purpose of discussing and studying any matters to come before either board shall not be deemed to be a regular or special meeting.

14-030.3 Minutes. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the board and of the persons appearing by attorney, the actions taken by the board, the findings made by it, if any, and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the township clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the board.

14-030.4 Fees. Fees for applications or for the rendering of any service by the planning board or zoning board of adjustment or any new member of their administrative staffs which is not otherwise provided by ordinance may be provided for and adopted as part of the rules of the board, subject to the approval of the township committee. Copies of such rules or of the separate fee of such rules or of the separate fee schedule shall be available to the public, provided that the application fee for a variance by the zoning board of adjustment or for a conditional use by either body shall be as set forth in subsection 19-030.4. Applications for more than one type of development shall accumulate the fees. Either board may waive any fee, in the event of an application on behalf of a nonprofit or religious corporation or association.

14-030.5 Hearings. A. Rules. The planning board and zoning board of adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of R.S. 40:55D-1, et seq., or of this chapter.

B. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by parties, and the provisions of the county and Municipal Investigations Law, R.S. 2A:67A-1, et seq., shall apply.

C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer, and to reasonable limitations as to time and number of witnesses.

D. Evidence. Technical rules of evidence shall not be applied to the hearing, but the board may exclude irrelevant, immaterial or unduly repetitious evidence.

E. Records. Each board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

14-030.6 Notice Requirements for Hearing. Whenever a hearing is required on an application for development pursuant to R.S. 40:55D-1, et seq., the applicant shall give notice thereof as follows:

A. Public notice shall be given by publication in the official newspaper of the township at least ten days prior to the date of the hearing.

B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred feet in all directions of the property which is the subject of such hearing and whether located within or without the township in which the applicant's land is located. Such notice shall be given by:

1. Servicing a copy thereof on the owner as shown on the current tax duplicate or his agent in charge of the property or

2. Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt shall not be required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

C. Notice of all hearings on applications for development involving property located within two hundred feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality. Such notice shall be in addition to the notice required to be given pursuant to subdivision B of this subsection to the owners of lands in such adjoining municipality which are located within two hundred feet of the subject premises.

D. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within two hundred feet of a municipal boundary.

E. Notice shall be given by personal service or certified mail to the commissioner of transportation of a hearing on an application for development of property adjacent to a state highway.

F. Notice shall be given by personal service or certified mail to the director of the division of state and regional planning in the department of community affairs of a hearing on an application for development of property which exceeds one hundred and fifty acres or five hundred dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the secretary of the appropriate board.

G. All notices hereinabove specified in this section shall be given at least ten days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.

H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of R.S. 40:55D-14.

I. All notices required to be given pursuant to the terms of this subsection shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the township tax assessor's office and the location and times at which any maps and documents for which approval is sought are available for public inspection.

14-030.7 List of Property Owners Furnished. Pursuant to the provisions of R.S. 40:55D-12c, the township tax assessor shall, within seven days after receipt of a request and upon receipt of payment of a fee as set forth in subsection 19-030.7, make and certify a list from the current tax duplicate of names and addresses of owners whom the applicant is required to give notice pursuant to paragraph 14-030.6(B).

14-030.8 Decisions. A. Each decision on any application for development shall be set forth in writing, which shall include findings of fact and conclusions based thereon. The board shall provide the findings and conclusions through:

1. A resolution adopted at meeting held within the time period for action by the board on the application for development; or

2. A memorializing resolution adopted at a meeting held not later than forty-five days after the date of the meeting at which the board voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt a resolution. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, with those members

who voted against the motion of approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the board and not to be an action of the board. However, the date of the adoption of the resolution shall constitute the date of the decision for purposes of mailings, filings and publications required by this chapter and N.J.S.A. 40:55D-10. If the board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the superior court in a summary manner for an order compelling the board to reduce its findings and conclusions, in writing, within the stated time and the cost of the application, including attorney's fees, shall be assessed against the township.

B. A copy of the decision shall be mailed by the board within ten days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee set forth in R.S. 47:1A-2. A copy of the decision shall also be filed in the office of the township clerk, who shall make a copy of such filed decision available to any interested party upon payment of the fee set forth in R.S. 47:1A-2.

14-030.9 Publication of Decision. A brief notice of every final decision shall be published in the official newspaper of the township. Such publication shall be arranged by the secretary of the planning board or zoning board of adjustment, as the case may be, who shall charge the applicant for the cost of such publication. Notice shall be sent to the official newspaper for publication within ten days of the date of any such decisions.

14-030.10 Records Retained by Township Clerk. Upon the conclusion of any matter coming before the planning board, the zoning board of adjustment or upon appeal before the township committee, a copy of each application, supporting documentation, minutes of hearings, correspondence, decisions and other information relevant to the determination, shall

be maintained in the office of the township clerk for a period of not less than five years, which shall be considered a public record with the meaning of R.S. 47:1A-1, et seq.

14-030.11 Payment of Taxes. Pursuant to the provisions of R.S. 40:55D-39, every application for development submitted to the planning board or to the zoning board of adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application.

14-040 Appeals.

14-040.1 Appeals from Zoning Board of Adjustment and Planning Board Decisions.

A. Any interested party may appeal to the township committee any final decision of the zoning board of adjustment approving an application for development pursuant to paragraph 14-020.6(D) of this chapter. Such appeal shall be made within ten days of the date of publication of the final decision of the zoning board of adjustment. Such appeal shall be made by serving the township clerk, in person or by certified mail, with a notice of appeal specifying the grounds of such appeal, the name and address of the appellant and, if represented, his attorney. Such appeal shall be decided by the township committee only upon the record established before the zoning board of adjustment.

B. Notice of the meeting to review the record below shall be given by the township committee by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to paragraph 14-030.8(B) and to the appropriate board at least ten days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the township committee shall provide for verbatim recording and transcripts of such meeting pursuant to paragraph 14-030.5(E).

C. The township committee shall conclude a review of the record below not later than forty-five days from the date of receipt of the transcript of the hearing unless the appellant consents, in writing, to

an extension of such period. The appellant shall arrange for a transcript pursuant to paragraph 14-030.5(E) for use by the township committee. Failure of the township committee to hold a hearing and conclude a review of the record below and to render a decision within such specified period, without such written consent of the appellant, shall constitute a decision affirming the action of the board.

D. The township committee may reverse, remand, or affirm with or without the imposition of conditions, the final decision of the zoning board of adjustment approving a variance pursuant to paragraph 14-020.6(D) of this chapter.

E. The affirmative vote of a majority of the full authorized membership of the township committee shall be necessary to reverse, remand or affirm, with or without conditions, any final action of the zoning board of adjustment.

F. An appeal to the township committee shall stay all proceedings based on the decision appealed from, unless the board certifies to the township committee, after the notice of appeal shall have been filed with such board, that by reason of acts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the superior court on application upon notice to the board from whom the appeal is taken and on good cause shown.

G. The township committee shall, not later than ten days after the date of the decision, mail a copy of the decision to the appellant or, if represented, to his or her attorney, without separate charge. Additionally, a copy of the decision shall be mailed to any interested party upon request and payment of the fee established under R.S. 47:1A-2. A brief notice of the decision shall be published in the official newspaper of the township. Such publication shall be arranged by the township clerk who shall charge the appellant for the cost of such publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the date of publication.

14-040

14-040.2 Right to Review. Nothing herein shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

14-050 Effective Date.

This chapter shall take effect on January 1, 1977, after final adoption and publication in the manner prescribed by law.