

**ROBBINSVILLE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
RULES OF PROCEDURE  
(Revised October 6, 2020)**

**ARTICLE I            General Provisions**

Section 1:            These rules are supplementary to the provisions of the zoning ordinance of the Township of Robbinsville as they relate to the procedures of the Zoning Board of Adjustment.

Section 2:            The Board shall consist of seven regular members and two alternates as designated by the Township Council.

Section 3:            Any member of the Board who has any interest, direct or indirect, personal or financial, in a matter before the Board shall not vote thereon and shall remove himself/herself from any meeting or hearing at which said matter is under consideration. A DISQUALIFYING conflict of interest shall be deemed to exist: (a) when the Board member is the spouse of the applicant; (b) when the Board member is related to the applicant or applicant's family in such a degree that the Zoning Board Attorney considers the relation a conflict; (c) when the Board member who owns or controls 5% or more of the assets or any class of the securities issued by a corporation which is an applicant; (d) when the member owns property within 200 feet of the property which is the subject of the application; or (e) any other conflict recognized by New Jersey law. If there is any doubt as to the propriety of acting on a particular matter, the Board member should voluntarily disqualify himself/herself.

Section 4:            Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the zoning ordinance, including the zoning and official map, which authority is reserved to the Township's governing body except as permitted by statute.

Section 5:            The office of the Zoning Board of Adjustment shall be located at the office of the Robbinsville Township Planning/Zoning Department. All records of the Board shall be available for public inspection between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except for legal holidays.

**ARTICLE II           Reorganization of Meeting and Officers**

Section 1:            The Zoning Board of Adjustment shall hold a Reorganization Meeting for the purpose of electing officers and appointing professionals. The Board shall also, at this time, prepare and publish a calendar of its regular meetings and designate their official newspapers. Immediately following the Reorganization Meeting, the Board shall conduct its first regular meeting of the year to conduct regular business before the Board.

Section 2: The Zoning Board of Adjustment shall choose the officers of the Board annually, for a term of one year.

Section 3: The officers of the Board shall be a Chairperson and a Vice-Chairperson.

Section 4: The Board shall elect a Chairperson and a Vice-Chairperson from amongst its members. The officers shall be elected at the reorganization meeting of the Board in the month of January and shall hold office for one year commencing with the reorganization meeting or until a successor is designated. In the event of death, removal for cause, resignation of any officer, his/her successor shall be elected by the Board to serve for the remainder of the unexpired term.

Section 5: The Board shall also designate an attorney for the Zoning Board of Adjustment, who shall be an attorney other than the Township Municipal Attorney. The same attorney may serve both the Planning Board and the Zoning Board of Adjustment, but if a conflict arises between the two Boards, he must disqualify himself and can represent neither.

Section 6: The Board may employ or contract for and fix the compensation for professionals and other staff and services as it shall deem necessary.

Section 7: The Secretary, attorney, and other professionals and staff shall be appointed at the reorganization meeting of the Board in the month of January and shall hold office for one year commencing with the reorganization meeting of the Board or until a successor is designated. In the event of death, removal for cause, or resignation of the Secretary or Attorney, his/her successors shall be appointed by the Board to serve for the remainder of the unexpired term.

Section 8: The Board shall fix the compensation for the Attorney at the time of appointment.

**ARTICLE III**      **Duties**

Section 1: The Chairperson shall supervise the affairs of the Zoning Board of Adjustment. He/She shall preside at meetings of the Board, shall appoint such committees and subcommittees as may be necessary to carry out the purposes of the Board, shall provide for the oath to be administered to all witnesses in cases before the Board and shall provide for the issuance of subpoenas to compel the attendance of witnesses and the production of relevant evidence. The Chairperson shall be an ex officio member of all committees and subcommittees so appointed. Where required by statute, ordinance or rule to do so, he/she, along with the Secretary, shall sign all documents. The Chairperson shall have the authority to bar from any meeting any disorderly or disruptive person and such person shall thereafter continue to be barred from that meeting of the Board until such time as the

Board, by majority vote, permits such person to again attend that meeting of the Board.

Section 2: The Vice-Chairperson, in the absence or disability of the Chairperson, shall perform all the duties and exercise all the powers of the Chairperson.

Section 3: In accordance with the State’s retention schedule, the Secretary shall record and maintain permanent minutes of the Board’s proceedings, showing the vote of each member upon every motion, or if absent or failing to vote, indicating that fact; shall keep records of its examinations and other official actions; shall summarize accurately the testimony of those appearing before the Board and keep a verbatim taped record of all hearings; shall record the names and addresses of all persons appearing before the Board in person or by attorney; shall, subject to the Board and chairperson, conduct the correspondence of the Board and have published in a local newspaper public notices of meetings or hearings as required by law and these rules of procedures; shall file said minutes and records in the office of the Board which minutes and records shall be a public record; and shall be the custodian of the files for the Board and keep all records.

Section 4: The attorney shall advise the Board in all matters of a legal or technical nature relating to the interpretation of statutes, charters, ordinances and the like. He/She shall prepare for and review with the Board all resolutions. He/She shall perform such other duties consistent with his/her professional competence as the Board may from time to time assign.

**ARTICLE IV Applications Before the Board**

Section 1: A complete application must be filed with the Technical Review Committee (TRC) deadline in order to be placed on the noted TRC meeting agenda. Any application that is submitted after the TRC deadline will be eligible to be placed on the following scheduled TRC meeting agenda. Any missing (incomplete) submission items will delay an application from being placed on a TRC agenda until all items are submitted, where the final submission date will govern the TRC meeting date. Any applicant that requests to waive participating in TRC may proceed without the benefits of a TRC; however, waiving TRC does not provide for an applicant to be placed on a Board agenda any sooner.

Section 2: For applications brought pursuant to N.J.S.A. 40:55D-70(d) (“Use Variance”), the Applicant is required to provide a stenographer to prepare a transcript of the hearing, which shall be provided to the Board Secretary upon completion.

Section 3: Any plans, reports, renderings and other data required by the Robbinsville Township Land Use Ordinance, the Municipal Land Use Law or as requested at TRC must be submitted to the Board and deemed complete not

less than twenty-one (21) days prior to being considered by the Board at a public hearing. This requirement shall include any amendments to these documents, in order to allow proper review by the Board's professionals prior to public hearing. Any changes presented at the public hearing that would not be considered "minor" by the Board will not be considered and the matter will be carried to a later date in order to allow proper review by the Board's professionals.

Section 4: An applicant must submit an itemized response letter when addressing any professional/technical review comments and/or conditions of any approval. This letter should specifically or indicate how the comment/condition has been addressed. Any resubmission should be made together and must include a digital copy of any revised or additional submissions.

Section 5: Resolutions will be prepared by the Board Attorney and shall be submitted to the Board Secretary ten (10) days after Board action on the matter. If the resolution cannot be provided to the Board Secretary within this timeframe, the Attorney should inform the Board Secretary and the Board Chairperson of the delay. If an extension of any statutory time is required due to the delay, it shall be obtained by the Board Attorney and put on file with the Board Secretary.

Section 6: Unless otherwise determined by the Board, (1) Applicants shall be required to submit for resolution compliance within 45 days of memorialization of a resolution; and (2) Compliance of all conditions in the resolution must be met within six months of memorialization of a resolution. In the event the Applicant cannot comply with these requirements, Applicant shall return to the Board to address the delay.

Section 7 For all resolutions granting N.J.S.A. 55D-70(d) ("Use Variance) relief, Applicant is required to file said resolution with the Mercer County Clerk. The Board or the Board's professionals may require that any necessary plans, maps or other documents also be recorded with the Mercer County Clerk. Receipt of this recording should be provided to the Board Secretary within 30 days of memorialization of the resolution.

## **ARTICLE V Meetings**

Section 1: Regular meetings shall be held on such date, time and place as the board will designate at their reorganization meeting each year annually. The meetings shall begin at 7:00 p.m. and end by 10:00 p.m., unless a majority of the Board allows the meeting to continue on a matter already being heard by the Board. Meetings can be held virtually as long as they are in accordance with the Open Public Meetings Act, any DCA requirements and any other state-issued guidance.

Section 2: Regular meetings may be cancelled by the Chairperson when there are no cases pending. Notification must be given to members and others according to the Open Public Meetings Act.

Section 3: Unless otherwise provided in these rules, all meetings shall be conducted in accordance with Roberts Rules of Order.

Section 4: Any Board member who fails to attend three regular meetings of the Board in a calendar year shall, at the direction of the Chairperson or upon vote of the majority of the Board, be reported to the Township Council for appropriate action.

Section 5: Remote Public Meeting Procedures During a Declared State of Emergency

#### Meetings

In-person public meetings remain the default during a declared emergency. Room capacity restrictions pursuant to Federal and/or State guidelines shall be followed for in-person meetings. A hybrid public meeting model shall be employed as necessary. In addition to physical access to public meetings, various virtual platforms like Zoom, WebEx, Teams, YouTube and Facebook Live may be the electronic communication platforms used for the public's remote access options for public meetings. The hybrid-meeting model, with two online communication platforms, is made available to provide many opportunities for the public's participation in Board business without physical attendance during a declared state of emergency requiring physical distancing limitations.

#### Notice of Meetings

Supplemental meeting notices, which include clear and concise instructions for accessing the meetings remotely, means for making public comment and where relevant documents, if any, can be found, are advertised on the Board website and posted on the bulletin board located in the foyer of the Administrative Wing of the regularly operating municipal building and on the main doors of the municipal building – viewable from the outside. Information may also be acquired by emailing [BoardSecretary@robbinsville.net](mailto:BoardSecretary@robbinsville.net).

#### Technology & Procedural Matters

##### *Remote Meeting Platform*

If there is an emergency, various electronic communication platforms like Zoom, shall be available for every public meeting. The access phone number and computer link for the specified meeting will be available, at a minimum, one week prior to the public meeting. Members of the public attending the meeting remotely may make public comment via virtual

platforms during the meeting. Comments sent via the virtual platform or by email will be accepted and will be made part of the record/minutes.

#### *Public Comments Submitted Prior to Meeting*

The public may submit questions or comments via e-mail to [BoardSecretary@robbinsville.net](mailto:BoardSecretary@robbinsville.net) no later than 4:00 p.m. on the day of the scheduled Zoning Board meeting. The public may also submit public comments in written letter form via mail or drop off to the municipal building located at 2298 Route 33, Robbinsville, New Jersey 08691 during business hours no later than 4:00 p.m. the day of the scheduled Board meeting.

Previously submitted public comment shall be read aloud and addressed during the public meeting that will be heard to all remote participants and the public. However, if comments are similar, then they may be summarized together. A three (3) minute time limit will be placed on the reading of each written comment. Each comment will be read from the beginning until the time limit is reached. The Board may pass over duplicate written comments; however, each duplicate comment will be noted for the record with the content summarized.

#### *Public Comments & Conduct from Remote Participants*

If an emergency situation exists, and a virtual meeting is called, the procedures and requirements for making public comment, along with an explanation of the audio muting function of the virtual platform being used, will be announced by the Board Secretary at the beginning of the remote public meeting. The Board will facilitate a dialogue with all commenters to the extent permitted by virtual technology.

All participants must keep their microphones muted and their video cameras off until directed otherwise. The Board Secretary will also engage the virtual meeting mute function until such time for public comments. Prior to the in-person members of the public engaging in public comment, all remote participants will be unmuted, invited to turn on their cameras, and asked to state his/her name and home address before making comment. The Board Secretary will manage the order of the remote participants' comments.

If a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Board Secretary shall mute or continue muting the disruptive member of the public and warn that continued disruption may result in their being prevented from speaking during the remote public meeting or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors such as, but not necessarily limited to, shouting, interruption, and use of profanity. Time permitting, the disruptive individual shall be allowed to speak after all other members of the public have been given the

opportunity to speak. Should the person remain disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting.

*Presentations or Documents*

All documents made available to the public in hard copy format will be available prior to the meeting for download on the Board website. Documents, the Meeting Agenda and Remote Meeting Instructions may also be made available by emailing [BoardSecretary@robbinsville.net](mailto:BoardSecretary@robbinsville.net).

**ARTICLE VI**                    **Order of Business**

- Section 1:                    All meetings of the Board shall proceed at the discretion of the Board as follows:
- I. CALL TO ORDER
  - II. ROLL CALL
  - III. OPEN PUBLIC MEETINGS LAW STATEMENT
  - IV. FLAG SALUTE
  - V. CORRESPONDENCE
  - VI. PUBLIC COMMENTS (for matters not on the agenda)
  - VII. REPORTS OF OFFICERS & COMMITTEES
  - VIII. BOARD DISCUSSION
  - IX. APPROVAL OF MINUTES
  - X. RESOLUTION(S)
  - XI. NEW APPLICATION(S)
  - XII. OTHER MATTERS BEFORE THE BOARD
  - XIII. ADJOURNMENT

Section 2:                    Continuances

Continuances may be granted at the discretion of the Board in any case for good cause shown and to any interested party who has entered his/her appearance.

**ARTICLE VII**                    **Procedures on Hearings**

Section 1:                    At the time of the hearing, the applicant may appear in his/her own behalf or be represented by counsel, unless it is a corporation, in which case, it must be represented by an attorney.

Section 2:                    The application file shall be marked as Exhibit A-1. The professional's review letters shall be marked as Exhibit A-2. These exhibits shall be appended to the resolution.

Section 2:                    All witnesses shall testify under oath.

Section 3: The applicant or his/her representative shall make an initial statement outlining the nature of the application and of the evidence to be presented prior to calling witnesses and to the introduction of evidence.

Section 4: Hearing procedures shall be in the following order:

- a) The Robbinsville Township Technical Review Committee will determine the completion of the application prior to the regular meeting of the Board of Adjustment.
- b) The Board Attorney shall review the proof of service of notice documents and shall determine if notice was proper, enabling the Board to take jurisdiction over the application.
- c) Applicant, his/her witnesses and professionals, and the Board's professionals shall be sworn in by the Board Attorney.
- d) Applicant to testify and examine his/her witnesses.
- e) The Township Engineer presents to the Board the application and comments on same.
- f) The Township Planner provides his/her comments on the application.
- g) The Board Attorney reviews legal issues.
- h) Allow cross-examination of applicant and his/her witnesses by any interested parties of their attorneys, if represented.
- i) Allow testimony of adjacent property owners and townspeople first, then other interested parties (subject to change by the Chairman on a case-by-case basis).
- j) Applicant may not cross-examine any person testifying against the application.
- k) The applicant and any witnesses are examined by the Board, however, Board members may ask questions throughout the application.
- l) At some point in the hearing, the Board may suspend the application because it feels it necessary to visit the site in question, or requires more information.

- m) Close discussion to public and open for discussion of Board members.
- n) Obtain a motion and voice vote on the application.

Section 5: The Chairperson shall rule on all questions relating to the admissibility of evidence, limitation of testimony, etc. Said rulings may be overruled by a majority of the Board present.

**ARTICLE VIII      Records**

Section 1: A file of all materials, physical evidence and decisions relating to each case shall be submitted by the Secretary to the Township Administrative Officer as part of the records of the Board.

Section 2: All records of the Board shall be of public record, unless specifically exempt by law.

**ARTICLE IX      Amendment of Rules**

Section 1: These rules may be amended by an affirmative vote of two thirds or five members.

Section 2: The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

**ARTICLE X      Validity of Rules**

Section 1: If any section, subsection, sentence, clause or phrase of these rules and regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portion of these rules and regulations.

The foregoing rules and regulations were adopted by the Zoning Board of Adjustment of the Township of Robbinsville on May 19, 2020.

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