

Borough of Red Bank

RESIDENT INFORMATION FOR ATTENDING/PARTICIPATING AT A ZONING BOARD OF ADJUSTMENT OR PLANNING BOARD MEETING

This guide outlines the procedures which the New Jersey Municipal Land Use Law (MLUL) requires the Zoning Board of Adjustment and Planning Board to follow. Zoning Board of Adjustment members, who are appointed by the governing body, are charged by law with reviewing and determining all types of variances including use “d” variances, dimensional “c” variances, appeals and interpretations. Planning Board members, who include the Mayor, and members appointed by the Mayor, are charged by law with reviewing site plans, subdivisions, which include dimensional “c” variances, zoning ordinance amendments, re-examination and/or adoption of the master plan in accordance with the **MLUL N.J.S.A. 40:55D-1 et seq.** You may obtain a copy of the MLUL by contacting the New Jersey Planning Officials at www.njpo.org or at 908-412-9592 for further assistance. Approvals or denials of applications may be legally challenged (for instance, in New Jersey Superior court). Therefore, it is very important that the process laid out in the MLUL be closely followed.

AGENDAS

An agenda is available before all meetings. It is posted on the bulletin board in Borough Hall and outside the Planning & Zoning Office, at least 48 hours before the meeting and can also be found on the Borough of Red Bank website at www.redbanknj.org, click on meetings and agendas, then Zoning Board of Adjustment or Planning Board current agendas.

PUBLIC QUESTION AND COMMENTS

Each application is reviewed in accordance with MLUL procedures. The Zoning Board of Adjustment and Planning Board is a quasi-judicial body, and its procedures are similar to those used in a courtroom. The chairperson conducts the meeting as a judge might and the Board is comparable to a jury that votes to make a final decision. All members of the Zoning Board of Adjustment or Planning Board are resident volunteers and serve in the public interest without compensation. Board members are required to complete a state-mandated training course, which is also available to the public. Each year board members must file a financial disclosure statement which is required by the New Jersey Ethics Law with the Municipal Clerk.

The public may ask questions & comment on applications before the board at the meeting. The timing of such questions & comment depends on the complexity of the application. In general, less complex applications may only have one witness or property owner give testimony which in turn will allow the public to ask questions and comment of that sole witness. More complex applications have public question periods after each expert witness presents testimony, and in general the public may comment after the completion of the presentation of the application. That is generally up to the board chairperson if comments will be at the end of the application or after every witness. When asking a question, regarding a witness's testimony, the public may only ask a question only about that expert's testimony. The public may comment on any aspect of the application during the public comment period at the close of the application or as indicated by the board chairperson

Completeness review: No submission to the boards will be accepted unless it is accompanied by the required application fee and escrow deposit. When an application along with the required fee and escrow deposit has been submitted, the application will be reviewed for completeness in accordance with the appropriate checklists. (**NOTE: Under the MLUL, N.J.S.A 40:55D-10.3. et seq., the municipality has 45 days within which to conduct a completeness review.**) After the review, the applicant either will be notified that the application is complete and be given a hearing date, or the applicant will be notified that the application is incomplete and be given an itemization of the deficiencies.

APPLICATION PROCEDURES

When an application is announced by the chairperson, the applicant or his/her attorney comes forward. If the applicant is to provide testimony, he/she introduces him/herself, affirms that his/her testimony will be truthful (while being sworn under oath by the Zoning Board of Adjustment or Planning Board Attorney) and then explains the nature of the application. If the applicant is represented by an attorney, the attorney presents the application and, where applicable, the order of the applicant's expert witnesses. The chairperson asks the expert witnesses to introduce themselves and state their credentials for the record. They will be sworn in before presenting their testimony. Following the testimony of each witness, the Board will ask questions and seek clarifications needed for an informed review of the application. The chairperson will then ask if there are any questions from the public regarding the testimony.

If a member of the public wishes to ask a question, they may raise their hand and will be called up by the board chairperson. When the chairperson calls on you, please walk to the microphone. All members of the public will be asked to state their name & address for the record before asking questions. The public may be limited in the amount of time per person to ensure adequate time for all members of the public to get a chance to ask questions. The same rules will apply for when the public is asked for comments and all members of the public who wish to make a comment will then be sworn under oath by the Board Attorney.

The applicant has the right to cross-examine any members of the public who may make comments. Written statements or letters from individuals who are not present, petitions or speaking on anyone else's behalf are not allowable according to the **MULLEN ACT, N.J.S.A. 40:55D-10.D**. Written statement from the public in favor of or opposing the application cannot be accepted as the Board cannot cross-examine written statements; however, a member of the public may provide the secretary with a written copy of his/her remarks after speaking. Only the chairperson may decide who speaks at a given time. Comments called out from the audience will not be considered part of the record.

The chairperson has the right to close the public portion of a hearing if he/she feels the audience is unruly or are making comments that are not relevant to the application. The chairperson also has the right to have any member of the audience removed from the hearing room for unruly behavior. The meetings are recorded using a computer audio system. However, the applicant may also choose to hire a court reporting service at

his/her personal expense. Minutes will be prepared and summarized by the Board's Secretary.

Hearings that are not completed at one meeting may be further considered at future meetings. The chairperson will verbally announce that an application is carried to the next regularly meeting. To confirm a continuation of rescheduling, call the Planning and Zoning office at 732-530-2753 weekdays from 8:30 AM to 4:30 PM. When you follow the procedure discussed above, your input will have maximum impact on the board's deliberations. Please note that all applications are judged on the individual merits. The Board cannot predetermine the outcome of an application.

MEETING MINUTES

Meeting minutes are posted on the Town's website at www.redbanknj.org after the Board approves them, usually at the following month's meeting. Audio is also available of the meetings as well and may be requested by The Open Public Records Act.

The information and guidelines provided in this bulletin are subject to any changes in the MLUL and are subject to any procedures or deviations established by the land use boards to implement the MLUL in effect at that time.

(These guidelines are for the purpose of assisting interested parties in understanding and participating in the municipal land use process. Each application is unique and deviations from outline may necessarily occur. Such deviations should not be considered a basis for an argument in any appeals of a decision rendered by the Board.)

Should you have any additional questions, feel free to contact the Planning and Zoning Office at 732-530-2753.