

APPENDIX II

INSTRUCTIONS TO APPLICANTS ZONING BOARD OF ADJUSTMENT

(Courtesy Richard H. Downes, Esq.)

1. Applications for development shall be filed with the Zoning Board of Adjustment, pursuant to these instructions as hereinafter set forth, in those cases and under those circumstances where the Zoning Board of Adjustment has the power to hear the particular application for development pursuant to N.J.S. 40:55D-70 and 40:55D-76. Application shall be made upon the forms supplied by the Zoning Board of Adjustment, which can be obtained from the _____. All information required by the official check-list, a copy of which will be given to applicant, shall be supplied.

2. The applicant shall file with the Board an original and _____ copies of the application together with a like number of all supporting documents submitted with the application. Forms dealing with service and proof of service shall be filed in triplicate.

3. When the application and all check-list items have been completed and filed with the _____, together with the appropriate fee and a certification from the tax collector that taxes have been paid, the applicant will be notified of the date of his hearing. At that time, the applicant will be supplied with the necessary forms and affidavits for the required notice of the property owners and others required to receive notice, pursuant to State Statute.

4. The applicant shall give notice, at least ten days prior to the date of the hearing, as follows:

a. Public notice shall be made by the publication, in _____, of a legal advertisement, and proof of such publication, in the form of an affidavit to be obtained from the _____, shall be submitted to the Board as hereinafter set forth.

b. Notice shall be given to the owners of all real property, as shown in the current tax duplicate or duplicates, located in the State and within 200' in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which applicant's land is located. This requirement is deemed to have been satisfied when condominiums or horizontal property regimes are within 200' of Applicant's property by making service in the following manner:

(1) If the Applicant's property abuts a condominium and the owner of any unit is within 200' of the Applicant's property and said unit has a unit above or below it, by giving notice to the condominium association.

(2) If the Applicant's property abuts a horizontal property regime and an apartment of the co-owner is within 200' of the Applicant's property and such apartment has an apartment above or below it, by giving notice to the horizontal property regime.

(3) If the Applicant is the owner of a condominium unit or co-owner of an apartment, notice shall be given to all other unit owners or apartment co-owners within 200' of the unit or apartment owner or co-owned by the Applicant.

Names and addresses of such property owners located within (Zoning Board's municipality) may be procured by making written request to the (administrative official) and payment of a fee not to exceed \$.25 per name or \$10.00, whichever is greater. If there are other property owners who have land within 200', but not within (Zoning Board's municipality), their names and addresses must be procured from the administrative officer of the municipality within which their property is located. Such notice shall be given by:

(1) serving a copy thereof on the owner, as shown on the said 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 said current tax duplicate. A return receipt is **not 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, a vice-president, secretary or other person authorized, by appointment or by law, to accept service on behalf of the corporation.

Where a condominium association, horizontal property regime, community trust or homeowner's association own grass, landscaped areas, driveways, parking lots, recreational

facilities, etc., which are common elements or areas that are within 200' of the property which is the subject of a hearing, notice may be made in the same manner as to a corporation, without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Notice of all hearings on applications for development involving property located within 200' of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given to the owners of lands in such adjoining municipality which are located within 200' 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 situate within 200' 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 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to N.J.S. 40:55D-10(b).

g. The applicant shall file an affidavit of proof of service with the Board, as hereinafter set forth.

h. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of N.J.S. 40:55D-14. If notice has not been given as stated above, the application CANNOT be heard.

5. The applicant shall file a list of property owners served, and indicate the lot and block number of each owner served and designate the method of service on the form provided. The form shall be filled in **completely**, and the Affidavit of Service shall be signed, notarized, and filed with the _____ at least _____ days prior to the date of the scheduled hearing. To the Affidavit of Service shall be appended a completed form of notice, filled in as it was sent to the persons entitled to notice of the hearing. A copy of the certified list of persons to whom notice should be sent, as compiled by the appropriate administrative officer of the municipality in which the property is located, may also be attached to the Affidavit of Service. Where service has been made by certified or registered mail, the post office receipts must be post marked at the time they are mailed, and must be attached to the Affidavit of Service.

6. If the applicant does not own the property described in the application, the Affidavit of Ownership must be completed on the form provided and filed either with the application or with the Proof of Service.

7.a. The applicant shall file with the application _____ copies of a plot plan or survey to scale, not less than one inch equals 50 feet, that shall show all properties within 200' of the subject properties and shall include:

- (1) North point
- (2) Lot lines, with dimensions
- (3) Lot area in total square feet or acreage to the nearest hundredth, (e.g. 13.57)
- (4) Tax Map Block and Lot numbers
- (5) Zoning district(s)
- (6) Name of the road or roads on which the lot fronts
- (7) Easements and right-of-way, if any
- (8) Location of streams, if any
- (9) Location of all existing buildings, if any
- (10) Location of the proposed structure or change, showing the front, rear and side yard dimensions
- (11) Building area allowed — (draw lines showing required front, rear and side yard set backs)
- (12) Location, arrangement and dimensions of parking area, driveway or service areas, if any

(13) Names of adjoining property owners

(14) Location of all buildings on all adjoining properties, (including set backs)

NOTE: If the plot plan is prepared by other than a surveyor, engineer or architect, it must be accompanied by an affidavit certifying that all of the information shown on the plan is correct.

b. If the relief sought is a use variance pursuant to N.J.S. 40:55D-70(d), and subdivision, site plan, and/or conditional use approval is required in connection with the project, the requests for approval shall be made, simultaneously, with the use variance application, to the Zoning Board in accordance with the "Instructions of the Planning Board." Said instruction may be obtained from _____. The applicant shall file, in addition to the plot plan required in 7a., the items hereinafter set forth in order to support the simultaneous request for a subdivision, site plan, and/or conditional use approvals:

(1) Subdivision applications shall be accompanied by _____ copies of a subdivision plat prepared in accordance with the requirements of the Subdivision Ordinance.

(2) Site Plan applications shall be accompanied by _____ copies of a site plan prepared in accordance with the requirements of the Site Plan Ordinance.

(3) On application for conditional use permits, the plot or survey required by paragraph 7a. will be sufficient.

8. The Applicant shall file, with the application, proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is made. Such proof shall be in the form of a certification from the (administrative official).

9. The application, together with the certification required in paragraph 8 above, must be filed with the _____ at least twenty days prior to the hearing date.

10. All corporate applicants must be represented by an attorney admitted to practice law in the State of New Jersey and, where applicable, must provide the following information:

a. A corporation or partnership applying to a Board of Adjustment for a variance to construct a multiple dwelling of 25 or more family units or in connection with an application for a variance pursuant to N.J.S. 40:55D-70(d) seeking permission to subdivide a parcel of land into 6 or more lots or for approval of a site plan to be used for commercial purposes, shall file a list of the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be. Such list shall be filed with the Board, along with the original application.

b. If a corporation or partnership owns 10% or greater interest in a partnership, which is subject to the disclosure requirements of paragraph (a) above, that corporation or partnership shall file a list of the names and addresses of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in the partnership until the names and addresses of the non-corporate stockholders and individual partners, exceeding the 10% ownership criteria established by this requirement, have been listed.

c. Should a corporate applicant fail to comply with paragraphs (a) and (b) above, the Board of Adjustment shall not approve the application.

Other applicants may proceed either with or without an attorney. However, persons without an attorney **must be** physically present at the hearing.

11. The case of the applicant will be ready for hearing when the applicant has completed all of the following steps pursuant to these instructions:

a. Original and _____ copies of the application form.

b. Certification of Tax Collector that taxes have been paid.

c. _____ copies of the plot plan or survey. (Note requirement of N.J.S. 40:55D-10(b) requiring maps and documents for public inspection at least ten (10) days before the date of the hearing in the office of the administrative official).

d. Affidavit of Ownership (if applicable).

e. Affidavit of Service, Form of Notice, List of Property Owners served, together with Post Office receipts where service is made by certified or registered mail, and Proof of Publication of the legal advertisement placed in the _____.

f. Septic Systems Permit, if applied for and received.

12. In the event that the full authorized membership of the Board is not present at the hearing, the Applicant may request an adjournment of his appeal to the next regular meeting of the Board. An Applicant may request that the Board of Adjustment consider his application at other than a regular meeting. Such a request can be made either in writing or by an appearance before the Board. Such a request should set forth the reasons that a special meeting is required. If a special meeting is held at an Applicant's request, the Applicant shall be responsible for such additional fees pursuant to provisions of _____ of the Board's rules.

13. Hearings, motions and other procedures shall be considered in conformance to the "Rules of the Zoning Board of Adjustment of the (municipality)." A copy of said rules may be obtained from the _____ upon payment of a fee of \$ _____. A copy of said rules is also on file in the office of the _____ and is available for inspection in the _____ Office.

Applicants will be heard in the order in which the applications are filed with the _____ or _____.

VARIANCES GRANTED BY THIS BOARD ARE
VALID FOR A PERIOD NOT TO EXCEED NINE
MONTHS AND THEN TERMINATE IF NOT
IMPLEMENTED (SEE PROCEDURES ORDINANCE).

NO NEW CASE WILL BE HEARD AFTER
10:30 P.M.: AND NO ADDITIONAL
TESTIMONY WILL BE TAKEN AFTER 11:00 P.M.