

BERNARDS TOWNSHIP PLANNING BOARD
RULES AND REGULATIONS
(adopted October 20, 2009)

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**Bernards Township Planning Board
Rules and Regulations
(adopted October 20, 2009)**

PART I. ORGANIZATION AND ADMINISTRATION

Rule 1:1. Annual Organization, Elections, Meetings

1:1-1. Organization Meeting. The Planning Board (the “Board”) of Bernards Township (the “Township”) shall convene a meeting on the first Tuesday after the first Monday of January, or such other date as otherwise determined, in each year at 7:30 p.m. for the purpose of organizing the affairs of the Board for the calendar year. Such meeting shall be conducted in the presence of the Board Attorney who was appointed for and who served through the preceding calendar year, and who shall serve pro tem until reappointment or replacement.

1:1-2. Election of Officers. At the organization meeting, the Board shall elect from its Class IV members a Chair and Vice-Chair. The Board shall also appoint a Secretary from among its members, except that if the Administrative Assistant of the Planning and Zoning Department of the Engineering Services Department of the Township is available to serve as Secretary, such person may so serve. The Secretary shall be compensated upon agreement and in accordance with the ordinances and/or determinations of the Board and the Township Committee of the Township of Bernards.

1:1-3. Board Attorney. 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 Board. The Board Attorney shall prosecute and defend litigation and appeals on behalf of the Board.

1:1-4. Board Engineer. The Board shall appoint or reappoint a licensed professional engineer in the State of New Jersey who shall review and report on the 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 instructed. The Board may adopt a job description for the Board Engineer that may be revised at such times as are appropriate.

1:1-5. Planner. The Board may appoint or reappoint a licensed professional planner in the State of New Jersey who shall review applications and land use matters, prepare Master Plan and reexamination reports, and attend meetings at the pleasure of the Board. The Board may adopt a job description for the Board Planner that may be revised at such times as are appropriate.

1:1-6. Other Assistance. The Board may also appoint or reappoint such other officers and/or assistants and engage such additional experts or staff as may be necessary from time to time.

Rule 1:2. Elections to Office and Duties

1:2-1. Vote to Elect; Term. The Board Secretary shall open the floor for nominations. The vote shall be taken as an alphabetical roll call vote. The candidate receiving the majority votes cast of the Board members present shall be deemed elected to the office for which the vote was taken and shall serve for one year. In the event that 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 at all meetings and hearings of the Board, decide all points of order and matters of procedure governing said meetings or hearings, and shall perform all the duties normally appertaining to his or her office, 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 the 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 secretarial 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 Meetings Act, the 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, 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) make a verbatim record of the proceedings of each hearing of the Board in accordance with these rules and keep minutes of the proceedings of each meeting 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;

(e) perform such other duties as normally appertain to the office of Secretary of the Board, and assign such parts of such duties as may be appropriate to an

assistant or designee. The Board may adopt a job description for the Board Secretary that may be revised at such times as are appropriate.

Rule 1:3. Meetings

1:3-1. Regular Meetings. Meetings of the Board shall be held at the Main Municipal Building, One Collyer Lane, Basking Ridge at 7:30 p.m. on the first and third Tuesday after the first Monday of each month. If the regular meeting day falls on a holiday on which the Township Offices are closed, the Board shall designate another date in that month on which the meeting shall be held. The Secretary shall annually furnish a copy of the regular meeting dates for the year to the news media designated by the municipal governing body in accordance with the Open Public Meetings Act. Whenever there are no matters to be considered at any regular meeting other than the organization meeting, the Chair may dispense with such meeting by directing the Secretary to provide notice of cancellation to each member of the board by reasonable means including email, without limitation and as soon as possible in advance of the time set for such meeting and by giving notice in accordance with the Open Public Meetings Act or otherwise posting the cancellation for the convenience and interests of the public.

1:3-2. Site Visits. The Board may schedule and conduct site visits to study any applications or other matters coming before the Board. A site visit shall not be for the purpose of holding hearings or taking formal or official action in connection with an application. A site visit shall not be considered a "hearing" as described in N.J.S. 40:55D-10, but the Board shall provide public notice of a proposed site visit if a majority or more of the members are expected to attend the site visit.

1:3-3. Special Meetings. Special meetings may be called by the Chair or, in his or her absence, by the Vice-Chair, at any time or upon the written request of two (2) or more members of the Board, provided that notice thereof be mailed or given to each member of the Board and to the public as required or allowed by law. An applicant may request but shall not be entitled to a special meeting. 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.

1:3-4. Quorum. At all meetings of the Board, a quorum to conduct any business of the Board shall consist of five (5) 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 quorum of the Board present.

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 exclude the public only from those portions of a meeting at which the Board

discusses matters within the exclusions provided under N.J.S.A. 10:4-12b and/or N.J.S.A. 40:55D-9b.

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) flag salute
- (c) statement of compliance with Open Public Meetings Act;
- (d) roll call
- (e) approval of minutes of previous meetings
- (f) motions for adjournments of any scheduled cases and any other motions
- (g) old business (adoption of resolutions and continued hearings)
- (h) new business (new hearings)
- (i) communications and reports by members; staff comments
- (j) public comment (by majority vote of the Board members present or when ordinance reviews are being considered by the Board
- (i) other discussion
- (k) closed session (as may be required)
- (l) adjournment

1:3-7. Time Limitations. The Board shall be under no obligation to consider new matters after 10:00 p.m., and will take no new testimony beyond 10:30 p.m. 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. Robert's Rules of Order, latest edition, shall be followed whenever a particular procedure or practice is not contemplated by these rules.

PART II. PROCEDURES

Rule 2:1. Applications and Hearings

2:1-1. Application to Planning Board. Applications for development and for any other relief shall be commenced by filing the original and three (3) copies of the latest form of application with the Board Secretary together with the fee required by ordinance and all other documents and/or items required by the requisite checklist(s) established by ordinance. Upon receipt of the application, the Secretary shall assign it a case number. Upon a determination of completeness in accordance with the ordinance, the Secretary shall so notify the applicant, and the applicant shall file eighteen (18) additional copies of the complete application package with the Secretary.

2:1-2. Filing of Maps and Documents. At least fifteen (15) days prior to the date scheduled for the hearing, the applicant shall file with the Board Secretary the maps, plans, plats and/or documents for which approval is sought and/or which the

Board required to be filed. Applicants should take note that N.J.S.A. 40:55D-10b provides a ten (10) day minimum filing period but not a maximum filing period. The Board has required a fifteen (15) day filing period in order for its experts and staff to have sufficient time to prepare reports so that they can be filed prior to the date for the hearing, rather than on the date of the hearing. This fifteen (15) day requirement shall apply to the initial hearing session as well as all subsequent hearing sessions.

2:1-3. Hearing Procedure. All applications and proceedings shall be conducted pursuant to N.J.S.A. 40:55D-1 et. seq.

2:1-4. Letters and Petitions in Objection. Letters of objection and petitions shall not be admissible, since the writer of a letter or the signer of a petition must appear, be sworn, and be subject to cross examination.

2:1-5. Burden of Proof. The burden of proof is upon the applicant, and 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 by the applicant. The applicant must establish, to the Board's satisfaction, that pursuant to statutory and ordinance criteria, the applicant is entitled to the relief sought.

Rule 2:2. Voting

2:2-1. Voting Margin and Effect. If a motion to approve an application for development fails to receive the number of required votes, such failure shall be deemed an action denying the application.

2:2-2. Abstentions. Abstentions are disfavored except for good cause. An abstention shall be regarded as an assent to the vote of the majority. Thus, if the majority of those voting would affirm a measure, abstentions would be counted toward affirmance; if the majority would defeat a measure, abstentions will be counted toward defeat. A disqualified member shall not be counted as an abstention and shall, instead, remove himself or herself from the panel and not be involved in the consideration of the application. If the Board is evenly split in its decision, no majority exists with whom an abstaining member can be said to vote and accordingly abstentions shall not be assigned to either bloc. A tie vote shall defeat an application, and abstentions shall not be construed to approve an application; nor shall abstentions be used to create a tie.

PART III. AVAILABILITY AND ELIGIBILITY OF MEMBERS

Rule 3:1. Disqualification for Interest

3:1-1. Disqualification Generally. No member of the Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. No member of the Board shall participate in proceedings in which such member has a conflicting interest that may interfere with

the impartial performance of his or her duties as a member of the Board. The decision as to whether a particular interest is sufficient to disqualify shall depend on the facts and circumstances of the particular case. The test shall be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the Board member to depart from his or her sworn public duty.

3:1-2. Remedy. When a member fails to disqualify himself or herself, any interested party may request an order or determination from the Board that such member is disqualified to act. The Board may thereupon hold a hearing on the matter or take whatever action it may deem appropriate. The decision of this Board shall be conclusive and binding.

PART IV. MISCELLANEOUS MATTERS

Rule 4:1. Committees

4:1-1. Special Committees. Special committees may be established by a vote of the majority of the full membership of the Board. The Chair shall appoint the members of such committee, who shall serve for a term to be determined by the Board when it acts to establish such committee.

Rule 4:2. Amendments

4:2-1. Amendments to the Rules. The Board may, from time to time, by a two-thirds (2/3) majority of regular members, amend any part or parts of these rules and regulations at any regular meeting, provided notice of the consideration of any such amendment has been given in writing to each member of the Board at last three (3) days prior to such meeting. In no case, however, shall any rules, as amended, be applicable to any action commenced prior to the adoption of such amendment, where the application thereof would result in surprise, hardship or injustice to the applicant or any interested parties.

Rule 4:3. Conflicts of Law

4:3-1. Laws Applicable. These rules are adopted pursuant to the provisions of N.J.S.A. 40:55D-8, subject to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey. To the extent that any rule is inconsistent with the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. or the ordinances of the Township of Bernards, the provisions of the State Statute and municipal ordinances shall prevail.