

BOARD OF ADJUSTMENT
TOWNSHIP OF WHITE

APPLICATION INSTRUCTIONS

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The Board of Adjustment has specific powers set forth in the Statutes of the State of New Jersey, R.S. 40:55D-69 et seq., which are incorporated in the revised Ordinance of the Township of White and may be found on Page 7145. Essentially, the Board of Adjustment has four basic powers as set forth in detail in Section 71-23 of the Ordinance. Those powers are:

(a) To decide an appeal where an administrative officer, either the Building Inspector or Zoning Officer, is alleged to have made an error based on the enforcement of the Zoning Ordinance. Normally these situations would be where the Building Inspector declines to issue a Building Permit;

(b) To hear requests for interpretation of the map or Zoning Ordinance or upon other special questions which the Board is authorized by the Zoning Ordinance to decide. The Ordinance will set forth the special questions upon which the Board is authorized to pass. Normally under this section, the Board is called upon to interpret questions involving the interpretation of the official Zoning Map or appeals involving matters such as a denial of a Certificate of Occupancy;

(c) Bulk variances which involve front, rear or sideyard setback problems or problems involving insufficient road frontage or lot depth. The requirements for each parcel of property will, of course, depend upon the zone in which the property is located. Under this section, the request for variances from these requirements are coupled by a showing of the property's exceptional narrowness or shallowness or shape, or by exceptional topographic conditions or other extraordinary situations where the strict application of the Ordinance would result in peculiar and exceptional and undue hardship on the owner of the property;

(d) Use variances to permit or allow a structure or use in a district which does not permit such a use.

In all four instances, the applicant has the burden of proving his or her case and, in addition to proving the case under any of the aforesaid sections, the applicant must also prove that the request can be granted without substantially impairing the intent and purpose of the zone plan and Zoning Ordinance, and without any substantial detriment to the public good. The Board of Adjustment also has incidental powers to direct the issuance of a permit to allow a structure to be built in the bed of a mapped street or drainage way or public area, and also may grant relief to allow the issuance of a Building Permit for a structure not related to a street.

The Board of Adjustment has 120 days after the date an appeal was taken from either the decision of the Zoning Officer or Building Inspector for the submission of a completed application to make a decision. Failure to act within the 120 days, or within such additional time as the applicant agrees to, will constitute a favorable decision.

1. Application: Where application for relief from the Board of Adjustment is made directly to the Board an original and twelve (12) copies of the application and required plot plans must be filed with the Board Secretary and the required fee shall be paid at that time.

Fees and Escrow Deposits:

Please see enclosed schedule of fees and escrows for application submissions.

Please note: The escrow deposit figure outlined in the schedule is an initial deposit. Additional escrow deposits may be necessary depending on the application submission.

2. Forms: When the application and plot plan have been filed with the Board Secretary together with the fee, the applicant will be supplied with the necessary forms and affidavits for the notification, pursuant to State Statute, of all property owners and others required to receive notice.

3. Notice Requirements for Hearing:

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 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 municipality at least ten days prior to the date of the hearing. Proof of publication by affidavit of publisher shall be submitted with the Proof of Service. It is the applicants responsibility to publish the Newspaper Notice.

(b) Notice shall be given to the owners of all real property as shown on the current tax duplicate, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property 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.

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. Notice to a

condominium association, horizontal property regime, community trust or homeowners association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, 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.

A certified list of property owners may be obtained upon written consent from the Administrative Officer of White Township.

(c) Notice of all hearings on application for development involving property located within 200 feet of an adjoining municipality shall also be given by personal service or certified mail to the Clerk of such municipality.

(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 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 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.A. 40:55D-10(B).

(g) Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.

5. Proof of Compliance: FULL COMPLIANCE WITH THESE REQUIREMENTS IS NECESSARY FOR THE BOARD TO HAVE JURISDICTION TO HEAR THE APPEAL. 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 Board Secretary at least 5 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, must also be attached to the Affidavit of Service. Where service has been made by certified or registered mail, the post office receipts must be postmarked at the time they are mailed, and must be attached to the Affidavit of Service.

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

7. Plot Plan: Applicant shall file with each copy of the application a Plot Plan or Survey to scale (not less than 1 inch = 50 feet). It shall show all properties within 200 feet of property affected by this application and shall include:

- (a) North point
- (b) Lot lines, with dimensions
- (c) Lot area, in total square feet, or acreage to the nearest hundredth (e.g. 13.57)
- (d) Block and Lot numbers
- (e) Zoning district(s) within 200 feet of premises
- (f) Name of the road or roads on which the lot fronts
- (g) Easements and rights-of-way, if any
- (h) Location of streams, if any
- (i) Location of all existing buildings, if any
- (j) Location of the proposed structure or change, showing the front, rear and side yard dimensions
- (k) Building area allowed — (draw lines showing required front, rear and side yard set backs)
- (l) Location, arrangement and dimensions of parking areas, driveway or service areas
- (m) Names of property owners
- (n) Location of all buildings on the lot in question and within 200 feet on adjoining properties
- (o) Description of the general topography of the land. (NOTE: If Plot Plan is prepared by other than Surveyor or Architect, it must be accompanied by an affidavit certifying all information shown on Plot Plan is correct).

ALL REQUIRED INFORMATION MUST BE SUBMITTED IN ORDER FOR THE APPLICATION TO BE COMPLETE. UPON REQUEST, AND FOR GOOD CAUSE SHOWN BY APPLICANT, INDIVIDUAL ITEMS MAY BE WAIVED BY THE BOARD OF ADJUSTMENT.

8. **Filing Deadline:** The application and Plot Plan must be filed with the Board Secretary at least fourteen (14) days prior to the hearing date.

9. **Corporate Applicant:** If applicant is a corporation it must be represented by an attorney admitted to practice law in the State of New Jersey.

10. **Board Decision:** The Board shall render its decision in accordance with N.J.S.A. 40:55D-70 and in accordance with the White Township Zoning Ordinance. If the Board takes no action within one hundred twenty (120) days from the filing date of the complete application, the Board will be deemed by law to have decided in favor of the applicant, unless applicant has consented to a continuance.

11. **Related Relief:** If the relief sought is a "use variance" pursuant to N.J.S.A. 40:55D-70(d), and subdivision, site plan, and/or conditional use approval is required in connection with the project, the requests for such approval shall be made, simultaneously, with the "use variance" application, to the Board of Adjustment in accordance with the Instructions of the White Township Planning Board. Said instructions may be obtained from the Planning Board Secretary. The applicant shall file, in addition to the plot plan required herein, such application form with attachments as called for in the Instructions of the Planning Board.

12. **Board Meetings:** Meetings of the Board of Adjustment are held on the third Thursday, of each month, at ~~the~~ prevailing time, at the Municipal Building, unless such day shall be a legal holiday, in which event the date of the meeting will be publicly announced at the previous meeting of the Board.