

## **White Township Planning Board Procedural Rules and Rules on Citizen Input During Planning Board Meetings**

This document outlines the procedures the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.) requires the Planning Board to follow and the Board's general policies and procedures.

All members of the Planning Board are resident volunteers who are appointed by the Mayor and Committee to 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 file financial disclosure statements required by the New Jersey Ethics Law with the Municipal Clerk.

The Planning Board's duties include (1) preparing and, after a public hearing, adopting or amending the Township's Master Plan; (2) hearing applications for subdivision and site plan; (3) hearing application for conditional use approval; and (4) reviewing zoning ordinances introduced by the governing body for consistency with the Master Plan. Encompassed in its duty to hear applications for site plan and subdivision, the Board may grant variances pursuant to N.J.S.A. 40:55D-70(c), commonly referred to as "c" or "bulk" variances. The Planning Board may not hear applications requesting relief from N.J.S.A. 40:55D-70(d) ("use" variances), including conditional use variances. Such power is reserved for the Township's Zoning Board of Adjustment.

Pursuant to Township Ordinance 160-38, the Township Planning Board is empowered to adopt rules governing conduct of hearings before it.

### **I. Meetings.**

**a. Regular Meetings.** The Planning Board's regularly scheduled public meetings are held on the 2<sup>nd</sup> Tuesday of the month at 7:00 pm in the White Township Municipal Building unless otherwise provided for in accordance with the Open Public Meetings Act N.J.S.A. 10:4-6 et. seq.

**b. Cancellation of Meetings.** Whenever there are no matters to be considered at a regular meeting, the Board Chair may cancel such meeting and direct the Board Secretary to provide notice of cancellation to each member of the Board by reasonable means and as soon as possible in advance of the time set for such meeting. The public may be notified of such cancellation by posting a notice on the door of the Municipal Building and on the Township Website. Meetings may be canceled subject to the same procedure in the event of inclement weather.

**c. Special Meetings.** The Board may call special meetings to focus on specific topics or applications, provided that notice is provided to the public in accordance with 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. At the discretion of the Chair, public comments or questions from the public may be limited only to the specific purpose of the special meeting.

**d. Work Sessions.** The Board may devote a portion of its regularly scheduled meeting or convene a special meeting as a "work session." The purpose of a work session shall be to discuss and study any applications or other matters coming before the Board and shall not be for the purpose of holding hearings or taking formal or official action in connection with an application for development. The consideration of any application or matter at a work session shall not be considered a "hearing" as described in N.J.S.A. 40:55D-10.

## **II. Agendas; Order of Business**

An agenda is available before all meetings. The agenda can be found on Township website (<https://white-township.com/pb-meeting-agendas.php>) and at the Municipal Building prior to the meeting.

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 and pledge of allegiance;
- b) statement of compliance with Open Public Meetings Act;
- c) swearing in of members (if necessary)
- d) roll call;
- e) open to the public for any items not listed on the agenda (limit of five minutes per person; not to exceed 25 minutes in total)
- f) approval of minutes of previous meetings;
- g) correspondence (a list will be available and a discussion of any particular item will be at the discretion of the Board members)
- h) motions for adjournments of any scheduled cases and any other motions;
- i) adoption of resolutions
- j) completeness review of applications
- k) old business (continued hearings);
- l) new business (new hearings);
- m) other discussion;
- n) conceptual plan review
- o) site plan deferrals
- p) committee reports
- q) closed session (if necessary);
- r) payment of bills;
- s) adjournment

**III. Photography and Video at Meetings.** The Board recognizes the right of persons to take pictures and video during its meetings provided that the persons taking the pictures or video do so in a manner that is respectful, unobtrusive and not disruptive to the meeting and those attending the meeting. As such, persons wishing to take pictures from hand held cameras or personal communication devices (cellular phones, tablets, laptop computers, and the like) can do so from their seats or, if standing, from the rear of the room adjacent to the exterior wall. Persons wishing to video may do so from their seats if the video equipment is hand held. For video equipment which is shoulder held or on a tripod or uni-pod, persons wishing to video can do so from the rear of the room adjacent to the wall. In all cases, no lights or flash shall be used. Any person wishing to photograph or video a meeting or any portion of a meeting must publicly announce their intention so that all persons are aware of same.

## **IV. Communications.**

Public hearings, whether on an application for development or master plan review, are quasi-judicial proceedings subject to appeal. Therefore, communications to the Board in favor of or opposition to an application or master plan adoption will not be considered as testimony or part of the record unless persons sending the communication are present to testify.

Reports requested by the Board from municipal employees (such as the Board Engineer or Planner) or governmental entities (such as other municipalities, the police department, fire department, County Planning Board, NJDEP, NJDOT, a board of education, or Warren County Soil Conservation District) shall not be

deemed such communications as are contemplated in the preceding paragraph and can be considered by the Board as part of the record without in-person testimony.

**V. Public Question and Comment.**

When making a comment or asking a question, members of the public must state their full name and address for the record.

Regular meetings will allow for a public comment period for items not on the agenda. Such comment period will be limited to five (5) minutes per person and a total of twenty-five (25) minutes. Persons may not comment more than once during this period or yield their time to another person. If an item is on an upcoming Board agenda for discussion, it is within the Chairperson's discretion not to accept comments on such items. Public hearings, including those on applications and master plan adoption, shall include a public comment period for that specific item. Additionally, within the discretion of the Board Chairperson, public comment may be taken on other agenda items.

The public may comment on applications before the Board, as set forth in more detail below. The timing of such comment period depends on the complexity of the application. In general, less complex applications have one public comment period. More complex applications may have public question periods after each expert witness presents testimony, and a general public comment period after the completion of the presentation of the application. When asking a question regarding a specific witness's testimony, the public may 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.

**VI. Application Procedure.** Please note that all applications are judged on their individual merits. The Board cannot and will not predetermine the outcome of an application.

**a. Submission Deadlines.**

These filing requirements are necessary in order to afford the Board, its professionals, and the public an opportunity to review application materials and revisions prior to each hearing. Additionally, the filing deadlines enable the Board and its professionals to make the materials available on the Township website at least ten (10) days prior to the hearing.

All submittals shall also be made in electronic form in order to enable the Board to make the materials available on the Township website for public inspection.

- i. Original Submissions.** At least fourteen calendar days prior to the date of the hearing, the applicant must file the required application materials with the Board Secretary.
- ii. Revisions.** Where a number of public hearings are held, any revised plans and submittals shall be filed within fourteen (14) calendar days prior to such continued hearing. The Board may waive this requirement for plan and submittal revisions in the event the revisions are minor in nature.

Revised submissions shall be accompanied by a letter or memo noting all the changes to each specific document.

**b. Availability for Public Inspection.** Application materials will be available to members of the public at least ten (10) days prior to the date of the hearing during regular business hours by contacting the Board Secretary. If members of the public want hardcopies of application materials, copying and reproduction charges may apply. However, the Board will, to the best of its ability, make application materials available in electronic form on the Township website (<https://white-township.com>). Members of the public are encouraged to access application materials via the website.

**c. Completeness.** Prior to beginning a public hearing on an application, the Board (in consultation with its professionals) must deem an application complete.

**d. Public Hearing.** Each application is reviewed in accordance with MLUL procedures. In many ways, the procedures are similar to courtroom procedures. The Chairperson conducts the meeting as a judge might and the Board is comparable to a jury that votes to make a final decision. Prior to beginning a public hearing on an application proper notice must be given pursuant to the MLUL. The notice provided via newspaper publication and (where required) letters to nearby property owners is verified by the Board Secretary and Board Attorney prior to commencing the public hearing.

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 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. If there are expert witnesses, they and the applicant, if testifying as a witness, will be sworn in before presenting their testimony. Individuals are permitted to appear before the Board on an application without an attorney. However, corporations and other corporate entities must appear through an attorney.

Following the testimony of each witness, the Board and its professionals will ask questions and seek clarifications needed for an informed review of the application.

**e. Objectors.** Objectors may appear individually and ask question or make statements as set forth below. However, objectors may appear by an attorney, in which case the objector shall be permitted to make a presentation and present testimony of witnesses through the attorney. Such presentation may be made after the applicant has completed its presentation and Board professionals have testified. However, the order of presentations is within the discretion of the Chairperson. If a group of objectors jointly hire an attorney, the Board and applicant are entitled to a list of the represented objectors. Such objectors can only be heard through their attorney, however, such objectors may each individually testify so long as their testimony is not repetitive.

**f. Public Comment.** Each person shall be limited to a total of 5 minutes during each public comment period. Time cannot be yielded to other persons. If a member of the public asks a question of a witness, the witness's answer shall not be counted against the 5-minute time limit.

As set forth above, in the Chairperson's discretion and depending upon the complexity of the application, questions from the public may be taken after each individual witness or at the conclusion of the applicant's presentation.

If you have a question or comment, raise your hand. When the Chairperson calls on you, please walk to the microphone. In the alternative, if there are numerous people who are anticipated to comment, please line up behind the podium at the direction of the Chairperson. If you seek to give substantive testimony (rather than just asking a few questions), you will then be sworn under oath by the Board Attorney. Please speak clearly into the microphone. All witnesses must state their names and addresses and spell their last names before asking a question or making appropriate comments.

Verbal statements from the public should be based on first-hand knowledge and not hearsay.

The applicant and the Board have the right to cross-examine/question any members of the public who speak. Written statements or letters from individuals who are not present, petitions, or speaking on anyone else's behalf are not allowable according to the MLUL. Written statements 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 that the audience is unruly, is making comments that are not relevant to the application, or is unreasonably interfering with the applicant's to proceed with its application. The Chairperson also has the right to have any member of the audience removed from the hearing room for unruly display of meeting decorum. The Chairperson has the right to bar members of the public from making duplicative statement or asking duplicative questions of witnesses.

g. **Record of Meeting.** The meeting is recorded using an audio system. However, the applicant may also choose to hire a court reporting service at his or her personal expense. Minutes will be prepared and summarized by the Board's recording secretary. Copies of Board's audio recording and minutes (after approval) of a public hearing are available to members of the public after submission of an OPRA request.

h. **Time Limitations; continuances.** Please note that the MLUL provides time limits for the Board to render a decision on an application ranging from 45 days for minor subdivision approval, to 95 days for site plan approvals regarding more than 10 acres, to 120 days for site plan applications with bulk variances. However, an applicant can consent to extend this period of time. 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 meeting. To confirm a continuation or rescheduling, call the Board office at (908) 475-8597.

All public hearings may be continued to another date certain, which shall be the next regularly scheduled Board meeting unless otherwise determined by the Board. The Chair shall announce to all those present the date, time and place to which the hearing on the matter is continued. No further notice need be given by the applicant in that event. However, if the matter is continued to a special meeting, notice required under the Open Public Meetings Act shall be given. The Board reserves the right to continue a hearing on its own motion for purposes of further consideration, subject to limitations of time

as provided in the Land Use Ordinance and the Municipal Land Use Law. The Board may also grant reasonable requests of interested parties to continue a matter in order to afford such parties sufficient time to prepare, engage counsel, obtain witnesses or for other good cause. However, the Board shall do so only to the extent that the applicant's interests are not unduly compromised or prejudiced with respect to the applicant's protected interests pursuant to prevailing law. Where adjournment for a continuance would extend the statutory period within which the Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

i. **Refusal to Consent to Continuance.** Where an applicant has taken a substantial period of time to present his or her case and then refuses to consent to a continuance so that objectors can be heard or the Board has insufficient opportunity to consider the matter, such refusal by the applicant may be deemed arbitrary and unreasonable by the Board. Should the applicant move the Board to decide the matter without affording such opportunity, the applicant shall be at risk of a denial of the application for failure to sustain the burden of proof and failure to afford the Board an opportunity to reach an informed decision.

j. **Adjournment.** The Board shall be under no obligation to consider new matters after 9:30 p.m., and will take no new testimony beyond 10:00 p.m. This rule may be waived by an affirmative vote by a majority of the Board members then present and qualified.

k. **Resolution.** After the conclusion

l. **Parliamentary Procedure.** Robert's Rules of Order, latest edition, shall be followed whenever a particular procedure or practice is not contemplated by these rules.

**VII. Meeting Minutes.** Meeting minutes are posted on the Township website (<https://white-township.com/pb-meeting-minutes.php>) following their approval by the Planning Board. Meeting minutes can also be obtain from the Board secretary by submitting an OPRA request. Please be advised that minutes that have not yet been approved by the Planning Board are not subject to public disclosure pursuant to OPRA.

The information and guidelines provided in this document are subject to any changes in the municipal land use law and are subject to any procedures or deviations established by the White Township Planning Board to implement the municipal land use law in effect at the 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 this outline may necessarily occur. Such deviations shall not be considered a basis for an argument in any appeals of a decision rendered by the Board.

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