



# BOROUGH OF METUCHEN

MIDDLESEX COUNTY

Tel. (732) 632-8540 • Fax (732) 632-8100 • 500 Main Street • Metuchen, N.J. 08840

## **Procedure for Filing an Application for Development with the Planning Board or Zoning Board of Adjustment**

Dear Applicant,

The Mayor and Borough Council adopt Ordinances which regulate the use of land in the Borough of Metuchen ("Borough"). The purpose of these land use regulations is to promote public health, safety, general welfare, morals, the purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2) and the goals, objectives, recommendations and policies of the Borough's Master Plan.

The Ordinance contains all of the necessary procedures, public notice requirements, subdivision and site plan ordinances, zoning regulations, development and design standards. The Ordinance is available online at [www.metuchennj.org](http://www.metuchennj.org)

The Planning Board and Zoning Board of Adjustment ("Board") exist so as to consider applications for land development and requests for relief from the land use regulations as promulgated by Chapter 110 of the Code of the Borough of Metuchen, which is known as The Land Development Ordinance ("Ordinance").

Applicants are strongly advised to review the Ordinance as they pertain to their application. ***Applicants would be well advised to consult with an attorney, particularly those who specialize in land use, to ensure that the proper procedures are followed.***

Any application that will appear before the Board and/or require the review of professional consultants to the Borough requires the establishment of an escrow account. This account is billed on a monthly basis, for any time necessary for consultation, review and report writing, by the following professionals during the review of the application:

<b>Borough Engineer:</b>	Tom Herits, Colliers Engineering	877-627-3772
<b>Board Engineer:</b>	Nicki Louloudis, Colliers Engineering	877-627-3772
<b>Borough Planner:</b>	James Constantine, LRK Inc.	267-804-7040
<b>Board Planner:</b>	Christopher Cosenza, LRK Inc.	267-804-7040
<b>Attorney:</b>	Robert Renaud, Renaud Colicchio	908-418-4088

The following guidelines and accompanying checklist have been prepared on behalf of the Board in an attempt to explain the procedures and various requirements for obtaining approval and/or seeking relief from the Board.

Should you have any questions about these procedures or your application, please contact the Board Secretary at (732) 632-8556 or the Zoning Official at (732) 632-8514 during normal business hours.

Thomas DiMartino  
Zoning Officer

## Submitting an Application

Generally, the **Planning Board** meets on the first and third Thursday of each month at 7:30 P.M. and the **Zoning Board of Adjustment** meets on the second Thursday of each month at 7:30 P.M. All applications must be deemed complete and filed with the Board Secretary prior to being placed on the Board's agenda. To begin:

1. Applicant shall submit, at minimum, the following to begin completeness review: Zoning Permit Application, zoning permit application fee (non-refundable), property survey indicating the proposed improvement(s), Application for Development, Narrative of Proposal, Checklist (if applicable) and accompanying documents such as plans, elevations, reports, photographs, etc. ***Hard copies, as well as a digital copy, must be submitted.***

**NOTE:** At this time, it is recommended that Applicant submit the Certified List Request to the Office of the Tax Assessor. The Tax Assessor will, within seven (7) days, make and certify a list of owners of all property within 200 feet of the subject property. Applicant should also at this time submit the Proof of Payment of taxes and assessments to the Finance Department.

2. The Zoning Official will review the application and execute completeness review, generally within 45 days, pursuant to N.J.S.A. 40:55D-10.3. If the application is deemed incomplete, the Board Secretary and/or Zoning Official will notify the Applicant of the deficiencies in the application.
3. Applicant shall submit the following to finalize completeness review: a digital as well as 14 copies (**these copies should be collated into complete sets**) of the Application for Development, Narrative of Proposal and accompanying documents along with one (1) copy of each of the Proof of Payment of Taxes and Assessments, Escrow Agreement, Application Fee (non-refundable), Escrow Fee, W-9 Form as well as any and all other applicable forms.
4. Once the application has been deemed complete, a tentative hearing date is scheduled. Applicants will be notified, in writing, of the date and notice documentation to be submitted.

## Notice Procedures

Applicant shall notice the public by notifying affected property owners and publishing a legal notice in the newspaper no later than 10 days prior to the scheduled hearing date, as described below:

5. Applicant shall compose a Notice of Hearing Letter and notify all property owners within 200 feet of the subject property at least 10 days prior to the scheduled hearing date. Notice must also be served upon the designated utility companies, Freehold Soil Conservation District, Middlesex County Planning Board, NJDOT (if necessary) and the Township of Edison (if necessary). Service shall be served by either one of the following methods:
  - a. Serving a copy in person on the property owner as shown on the current tax duplicate and obtaining the signature and date of such person on a document certifying notice.
  - b. Mailing a copy by certified mail to the property owner at the address shown on the current tax duplicate. Applicant shall retain the certified mail receipts showing the addressee and postal date stamp.
6. Notice should include the time and place where the meeting will be held; identify the property with block and lot, as well as street address; a description of the application; specific relief from any requirements and/or waivers from ordinance; and the specific use of the property.
7. Applicant shall publish a Legal Notice in the *Home News Tribune* or *The Star-Ledger*, at least 10 days prior to the scheduled hearing date. It is recommended that Applicant contact the newspaper to ensure that the Legal Notice will be published on the correct date.

8. Applicant shall request an Affidavit of Publication from the newspaper and submit it to the Board Secretary at least five (5) days prior to the scheduled hearing date along with the following: a copy of the original Legal Notice, list of Property Owners within 200 feet with the certified mail receipts attached and the Affidavit of Proof of Service.

### **At the Meeting**

Applicant and/or Applicant's attorney must be present at the hearing. If Applicant is a corporation, Applicant must be represented by an attorney licensed in the State of New Jersey. **Please note that all exhibits must be displayed digitally during the hearing.**

When seeking approval or relief from the land use regulations of the Ordinance, the Applicant must be prepared and be able to clearly explain the proposal and present evidence to enable the Board to make a determination that Applicant is entitled to its request. It is Applicant's burden to prove the necessity and appropriateness of the approval or relief that is requested. In general, Applicant will be required to prove the "positive reasons" for granting of the application as well as the "negative reasons" that granting of the application will not be a detriment to the public good nor to the intent of the Ordinance.

This process, by law, is in the nature of a judicial hearing, and accordingly, cooperation and respect is appreciated. Any questions that Applicant may have during the hearing may be addressed to the Chairperson or the Board's Attorney. All testimony is presented under oath and is recorded. The hearing will proceed as follows:

9. The application will be called and certified as being properly before the Board. Applicant may present a brief description of the application and present whatever testimony, witnesses and exhibits as desired for the Board to consider.
10. The Board may ask questions of Applicant and its witnesses. Other people, including members of the public, also have the right to ask questions, make statements or present testimony for the Board's consideration. Applicant has the right to cross-examine anyone who testifies, including the Board Professionals and members of the public.
11. Upon completion of the testimony and related questions and comments, the Board will close the public portion of the hearing and enter a deliberative session during which there will be no further testimony or argument unless the Board directs it. The deliberation and decision of the Board will take place in public.

**NOTE:** If the application is carried to another hearing date, public notice requirements do not have to be fulfilled. However, if the application is withdrawn or cancelled, Applicant must re-notice.

### **After the Meeting**

After action has been taken by the Board, the procedure is as follows:

12. A Resolution will be issued by the Board and memorialized at the following meeting, which concludes the Board's action at that time. Within 10 days of the date of the Resolution, the Resolution will be mailed to Applicant and/or Applicant's attorney.
13. When Applicant has received the Resolution, he/she must publish a Legal Notice of Action Taken by the Board in the *Home News Tribune* or *The Star-Ledger*. Applicant may provide a short version of the Resolution but must explain what was effectively approved (or denied) by the Board.
14. Applicant shall request an Affidavit of Publication from the newspaper and submit it to the Board Secretary along with the following: one (1) copy of each of the Affidavit of Compliance, new Zoning Permit Application and revised plans (if necessary).

**NOTE: Applicant is required to comply with ALL conditions of approval in the Resolution.**

## Types of Variances

### Variance

### Description in Municipal Land Use Law (MLUL)

#### **A (Appeal)**

##### **40:55D-70.a**

Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;

#### **B (Interpretation)**

##### **40:55D-70.b**

Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

#### **C-1 (Hardship)**

##### **40:55D-70.c(1)**

Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship;

#### **C-2 (Flexible)**

##### **40:55D-70.c(2)**

Where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act;

#### **D-1 (Use)**

##### **40:55D-70.d(1)**

In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit; (1) a use or principal structure in a district restricted against such use or principal structure.

#### **D-2 (Expansion of Non-Conforming Use)**

##### **40:55D-70.d(2)**

An expansion of a nonconforming use.

#### **D-3 (Conditional Use)**

##### **40:55D-70.d(3)**

Deviation from a specification or standard pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining solely to a conditional use.

#### **D-4 (Floor Area Ratio)**

##### **40:55D-70.d(4)**

An increase in the permitted floor area ratio as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4).

#### **D-5 (Density)**

##### **40:55D-70.d(5)**

An increase in the permitted density as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.

#### **D-6 (Height)**

##### **40:55D-70.d(6)**

A height of a principal structure which exceeds by 10 feet or 10% of the maximum height permitted in the district for a principal structure.



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## INITIAL SUBMISSION CHECKLIST (TO BEGIN COMPLETENESS REVIEW)

Date	Application Number	Board	Applicant Name	Property Address

### Application Packet

Owner Information and Project Description (4 HARD COPIES + ELECTRONIC COPY TO BE SUBMITTED TO THE BOARD SECRETARY)

- Zoning Permit Application (Denied)
- Application for Development
- Narrative of Proposal
- Photographs of Existing Conditions/Any accompanying exhibits
- Owner's Letter of Consent (if applicable)

#### Accompanying Exhibits

- Existing Survey
- Proposed Plot Plan
- Proposed Floor Plans & Elevations
- Proposed Landscape Plan (if applicable)
- Tree Removal Permit (if applicable)
- Tree Removal Permit Application
- Tree Removal Plan and Replacement

#### Other Forms (1 HARD COPY + ELECTRONIC COPY)

- Proof of Payment of Taxes and Assessments
- Freehold Soil Conservation District Application Form
- Disclosure by Corporation or Partnership pursuant to N.J.S.A. 40:55D-48.1 and/or 48.2 (if applicable)
- List of property owners within 200 feet form submitted to the Tax Assessor's office

#### Checklists (for all uses other than single- and two-family dwellings) (1 HARD COPY + ELECTRONIC COPY)

- Minor Site Plan, Major Site Plan, Minor Subdivision and/or Major Subdivision Checklist(s)
- Green Development Checklist
- Request For Waiver of Submission Requirements (if applicable)
- Notification from Middlesex County Planning Board that they received plans (if applicable)

#### Fees and associated forms

- Application Fee
- Escrow Fee
- Escrow Agreement Form
- W-9 Form

#### Notes:

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