



Township of Freehold

OFFICE OF THE PLANNING BOARD

One Municipal Plaza, Freehold, NJ 07728

RULES, REGULATIONS AND PROCEDURES

Adopted October 5, 2000
Amended January 17, 2013
Amended January 19, 2017
Amended January 17, 2019

PREFACE

The Freehold Township Planning Board was created by Ordinance of the Township Committee of the Township of Freehold pursuant to the authority of the New Jersey State Municipal Land Use Law. The Board consists of nine regular members, two alternate members and a Mayoral Designee. The State Municipal Land Use Law requires that the composition of the regular members be broken down into four classes which are as follows:

The Class I member is by operation of law the Mayor of the municipality. The Class II member is one of the officials of the municipality other than a member of the Township Committee such as the Code Enforcement Official, Tax Assessor or Chief of Police. The Class III member is another member of the Township Committee. The Class IV members who comprise the 5 remaining positions are other citizens of the municipality. Pursuant to N.J.S.A. 40:55D-25 and in furtherance of an ordinance adopted by the Township Committee of the Township of Freehold approved by voter referendum, the Planning Board was authorized to exercise to the same extent and subject to the same restrictions all the powers of a Zoning Board of Adjustment.

The Planning Board is charged with the administration of Freehold Township's Land Use Ordinance. It generally considers and acts upon applications for the subdivision of land and matters pertaining to commercial and industrial development in the form of site plan applications. It is the duty of the Planning Board to assure that applications for development in these broad categories are in accordance with the requirements of the Municipal Land Use Ordinance. The Board also has jurisdiction to grant relief from the requirements of the Municipal Land Use Ordinance in matters involving bulk and use variances pursuant to N.J.S.A. 40:55D-70 and in all other matters where Zoning Boards of Adjustment are authorized to act.

The Planning Board is subject to the provisions of the Open Public Meetings Act of the State of New Jersey and must conduct the vast majority of its business in public session. There are certain defined subjects which the Planning Board is authorized to consider in a session from which the public is excluded, however, prior to entering such a session the Planning Board will adopt a Resolution announcing the matter and its reasons for excluding the public.

The Board permits questions and comments of interested parties upon any land use application prior to the time that the Board takes action on that application.

The following Rules and Regulations describe and define the operations of the Board in detail and the public is invited to read and become familiar with them.

SECTION I: BOARD ORGANIZATION AND ADMINISTRATION:

RULE 1:1. Annual Organization; Elections; Meetings.

1:1-1 **Organization Meeting.** The Board shall convene a meeting on the first or third Thursday of January in each year following the re-organization meeting of the Freehold Township Committee at 7:00 pm or such other time as the Board shall designate at its last regular meeting of the preceding year 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 Chairperson and Vice-Chairperson. The Board shall also elect a Secretary.

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 Planning 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 may be the Freehold Township Engineer and 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.

1:1-5: **Board Planner.** The Board may appoint or engage a licensed professional planner in the State of New Jersey and an assistant planner who shall review applications and land use matters, prepare Master Plan and reexamination reports and attend meetings at the pleasure of the Board.

1:1-6: **Technical Review Committee.** The Technical Review Committee of the Freehold Township Planning Board shall consist of the Freehold Township Planner, Assistant Planner, Engineer, Board Attorney and such other staff and consultants as shall be required from time to time to adequately review and report to the Board upon the purely technical aspects of any application. The Planning Board Engineer shall preside at all Technical Review Committee meetings and he/she is given discretion to schedule such meetings as he/she shall see fit. The Planning Board may at any time refer a matter to the Technical Review Committee for resolution of or recommendation concerning technical issues. Technical Review Committee meetings need not be attended by all members and the Planning Board Engineer shall make the determination as to which members are required as to any application.

1:1-7: **Other Assistance.** The Board may also appoint 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.** A candidate receiving the majority vote of the entire membership of the Planning Board shall be deemed elected to the office for which the vote was taken and shall serve for one year or until he/she is re-elected or his/her successor shall take office. 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: **Chairperson.** The Chairperson shall preside at all meetings and hearings of the Board, decide all points of order and matters of procedure governing said meetings or hearings, appoint qualified persons to the Standing Committees and shall perform all the duties normally appertaining to his/her office, as required by law, ordinance, these rules or prevailing parliamentary practice.

1:2-3: **Vice-Chairperson.** The Vice-Chairperson shall preside at all Board meetings and hearings in the absence or upon the disqualification of the Chairperson, and shall have all of the powers of the Chairperson under such circumstances.

1:24: **Secretary.** The Secretary shall generally perform the secretarial work of the Board, including, but not limited to the following:

- (a) attend to official correspondence, compile required records, keep and maintain necessary files and indexes with respect to the operation of the Board, cause 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 meetings of the Board, take and have custody of 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 and disqualifications;
- (c) make a transcription 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 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 Planning Board, and assign such parts of such duties as may be appropriate to an assistant or designee.
- (f) The Planning Board may assign such duties of the Secretary hereunder to the Administrative Officer of the Township as it shall deem necessary and appropriate from time to time.

Rule 1:3. Meetings.

1:3-1. **Regular Meetings.** Meetings of the Planning Board shall be held at the Freehold Township Municipal Building, 1 Municipal Plaza, Freehold, New Jersey, at 7:00 pm on the first and third Thursdays of each month provided that the Planning Board may, at its annual organization meeting, re-schedule or cancel such meetings as it shall deem necessary to resolve conflicts with holidays, the unavailability of members or the like. Whenever there are no matters to be considered at any regular meeting other than the organization meeting, the Chairperson may dispense with such meeting by directing the Secretary to provide notice of cancellation to each member of the Board by reasonable means and as soon in accordance with the Open Public Meetings Act or otherwise posting the cancellation for the convenience and interest of the public.

1:3-2. **Special Meetings.** Special meetings may be called by the Chairperson or, in his/her absence, by the Vice-Chairperson, 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.

1:3-3. **Quorum.** At all meetings of the Board, a quorum to conduct any business of the Board shall consist of five (5) qualified 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 qualified quorum of the Board for that particular hearing.

1:3-4. **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. 10:4-12b and/or N.J.S. 40:55D-9b.

1:3-5: **Order of Business.** Subject to the discretion of the Chairperson to the contrary, the order of business for all regular sessions of the Board shall be as follows:

- (1) Meeting called to order.
- (2) Reading of notice required by the Open Public Meetings Act.
- (3) Salute to the Flag
- (4) Roll call and seating of alternates
- (5) Miscellaneous announcements
- (6) Action on Resolutions previously authorized ..
- (7) Conduct public hearings
- (8) Schedule required public hearings
- (9) Discussion which may include at the invitation of the Chairperson comments and questions from Planning Board members, staff and the public
- (10) Adjournment.

1:3-6. **Time Limitations.** The Board shall be under no obligation to consider new matters after 9:30 pm and will take no new testimony beyond 10:0 pm. This rule may be waived by a majority of the Board members then present and qualified.

1:3-7 **Parliamentary Procedure.** Robert's Rules of Order, latest edition shall be followed whenever a particular procedure or practice is not contemplated by these rules. The Board Attorney shall serve as the Board's Parliamentarian.

SECTION II. PROCEDURES:

Rule 2:1. Applications and Hearings.

2:1-1. **Administration of Applications; Completeness.** Applications for development shall be considered by the Board in accordance with the Land Use Ordinance. Upon receipt of an application by the Board Secretary, the application shall be assigned a docket number which shall thereafter appear on

all subsequent papers filed in the case. The original copy of the application, together with a copy of all other documents filed with the application, shall be filed in the permanent case docket of the Board. The Board or the Board Engineer as the Board's designee shall determine the completeness of the application in accordance with the Freehold Township Land Use Ordinance and the State Municipal Land Use Law subject however, to any completeness submission waivers granted by the Submission Waiver Committee hereinafter established. Upon a determination of completeness, the Board Engineer or Administrative Officer shall so notify the applicant, and the application shall be determined to be complete as of the day it was so certified by the Secretary for purposes of commencement of the time period within which the Board must act upon an application.

2:1-2. **Scheduling; Transmittals.** Upon a determination of completeness in accordance with these rules and regulations, the Board Engineer and Planner shall make the determination as to whether the application requires consideration at a meeting of the Technical Review Committee of the Freehold Township Planning Board or whether the matter may proceed directly to the Planning Board for consideration at a Public Meeting. Not later than twenty one working days before the date of the Planning Board meeting at which an application is to be considered by the Planning Board the applicant shall have submitted to the Planning Board office all plans, plats, maps, calculations, reports and other data required by the Freehold Township Land Use Ordinance and the Municipal Land Use Law to be deemed complete. If such data is not submitted, the application shall not be considered until this requirement is met.

2:1-3. **Referral to Staff and Consultants.** Upon an application being deemed complete by The Planning Board or the Assistant Planner as the Board's designee, the Secretary or the Administrative Officer shall cause the data so submitted by the applicant to be forwarded to all concerned Freehold Township agencies, boards, commissions, staff and consultants for reports and comments. Freehold Township Planning Board staff and consultants shall return their responses concerning the submission to the Planning Board not later than ten working days after notice from the Secretary or Administrative Officer that the submission has been received. Reports from other Freehold Township agencies, boards and commissions may be considered by the Board even if submitted later than ten days before the meeting and the absence of such reports from boards, commissions and agencies shall not be cause for cancelling the hearing. In that event, the Board may commence the public hearing, but continue same to a subsequent date in order that the Board and any interested parties shall have sufficient time to review any late report. One copy of all staff and consultant reports and such reports as are available from agencies, boards and commissions shall be made available at the Planning Board Office on the Tuesday next preceding the meeting and may be picked up at the Planning Board Office by the applicant or the applicant's representative.

2:1-4. **Scheduling of Public Hearings.** When an application has been determined by the Technical Review Committee to be ready for Board consideration, the Chairperson may assign a tentative public hearing date for those applications which require notice and a public hearing under the terms of the New Jersey State Municipal Land Use Law and the Land Use Law of the Township of Freehold. The applicant shall not give notice of such public hearing unless and until a clearance is obtained from the Planning Board office finalizing the public hearing date by confirming that the applicant has provided all of the data and addressed all of the comments set forth in the reports. Nothing herein shall be construed as preventing the conducting of the public hearing because of the existence of unaddressed comments or missing data where the applicant intends to apply for a waiver or other exercise of discretion by the Planning Board in conjunction with such missing data or unaddressed comments. **No applicant shall give notice of a public hearing until written clearance is obtained from the Planning Board office as provided for herein.**

Rule 2:2. Hearing Procedure.

2:2-1. **Appearance by Parties.** No corporation or limited liability company shall be heard except through counsel.

2:2-2. **Testimony Under Oath.** All persons giving testimony at a hearing shall be duly sworn by the Secretary of the Planning Board or in the absence of the Secretary of the Planning Board by the Board attorney.

2:2-3. **Order of Presentation.** Each application shall be considered in accordance with the following order of presentation:

- (a) After calling the application, the Board attorney shall determine whether applicable jurisdictional requirements have been met and shall so announce on the record.
- (b) The applicant shall enter an appearance on the record and be duly sworn. If the applicant is represented by counsel, the attorney shall enter his/her appearance, identifying the name and location of his/her firm and identifying the client who is represented.
- (c) The Chairperson shall call for the marking of exhibits into evidence which may be by consent of the applicant or any objectors or interested parties. Absent any such consent any proposed exhibit shall be marked for identification and thereafter may only be admitted into evidence if proper legal foundation for such exhibit is provided to the Board.
- (d) The Chairperson shall read into the record any reports or portions thereof which the Chairperson determines require emphasis for proper consideration by the Board and the public. The fact that any report marked into evidence is not read by the Chairperson into the record shall not be deemed to diminish the evidentiary value of such report in the record.
- (e) The applicant or the applicant's attorney may make an opening statement and shall then present testimony and such other evidence, depicted, documentary or otherwise, upon which the applicant intends to rely in order to establish a basis for the relief sought
- (f) At the conclusion of a witness's testimony, the Chairperson shall allow the members and, at the discretion of the Chairperson, any interested parties to ask questions of such witness, and may permit reasonable cross-examination by counsel representing any objector or interested party. At the time of the entry of his appearance before the Board, an attorney representing an objector or a group of objectors or interested parties shall submit to the Board a written list of persons represented by such attorney and shall submit a copy of the same to the applicant or the attorney for the applicant. Such persons shall participate in the proceedings only through their attorney.
- (g) Upon the conclusion of the presentation of the application, any objector wishing to present a case in objection to the relief sought may do so in such order as may be recognized by the Chairperson, and may call any witnesses for testimony and introduce any documentary or other evidence upon which he/she will rely. Any witness and objector shall be subject to reasonable cross examination by the applicant or his/her attorney and the Board, and the Chairperson shall allow a reasonable opportunity for interested parties to ask questions of such witnesses. The Chairperson shall first recognize presentations of counsel for objectors and those presentations involving expert testimony in the order that the Chairperson shall determine upon the exercise of reasonable discretion. Such presentations shall be subject generally to the procedure set forth in the above subparagraphs,

affording the attorney for the applicant, an applicant pro se and any experts for the applicant a reasonable opportunity for cross-examination and commentary.

- (h) The Board shall thereafter recognize public commentary by interested parties appearing pro se, and each such interested party shall be subject to cross-examination. The Chairperson shall have the right to cause any interested party appearing before the Board to be first duly sworn and shall do so whenever an interested party will proffer facts on which the Board would be expected to rely. All rebuttal testimony or evidence shall be considered in such order as the Chairperson shall designate. Only relevant objections shall be considered by the Board. The Board shall not consider unreasonable, repetitive or disorderly objections. The Board shall have the power to limit objections to those expressed by interested parties as the term is defined in the Municipal Land Use Law and construed by the courts of this State.
- (i) Any member of the Board may place evidence before the Board as to any relevant matter of which he/she has personal or official knowledge for the purpose of amplifying the record, including facts ascertained from a viewing of the premises in question subject to these rules.
- (j) The Board shall have the right to rely upon the expertise of its legal, engineering and planning consultants. The Board may also call, as witnesses, other municipal officials such as police officers, municipal engineers, the tax assessor, municipal employees, etc., to testify as to particular facts pertinent to the application. The Board shall also have the power to acquire additional evidence consistent with these rules.

2:2-4. Reports from Officers, Boards or Agencies. The Board may refer an application to another person or agency for a report provided that such reference shall not extend the time within which the Board must act. Such reports from other persons or agencies shall be made available to the applicant in accordance with the provisions of these rules. The applicant and interested parties shall have the right to subpoena the officer making the report for purposes of cross-examination as to its contents and the basis for conclusions. The Board shall either obtain such reports prior to the hearing, giving all interested parties the right to examine the same, or the hearing may be adjourned to a specific time and place for the purpose of receiving the reports and recommendations of public officials or agencies involved.

2 2-5. Continuances. All cases may be continued to another date certain, which shall be the next regularly scheduled Board meeting unless otherwise determined by the Board. The Chairperson 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.

2:2-6. Refusal to Consent to Continuance. Where an applicant 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. The Planning Board may at its discretion make any such denial of an application without prejudice depending on the sufficiency of the proofs presented to that point.

2:2-7. Testimony from Board Witnesses and Other Expert Witnesses. The Board may require expert witnesses and reports. Experts shall be qualified to the satisfaction of the Board. In addition to experts for the applicant or others, the Board shall have the power to engage its own independent experts to either corroborate or refute the testimony of experts produced by an applicant or other party. The Board shall not be bound to accept the testimony of any expert. Where there is conflicting testimony of experts, the Board shall decide which to accept. These rules shall not be construed as requiring expert testimony in all instances to sustain a Board finding. The Board may require its consultants to confer with the experts of the applicant and, where appropriate, with experts hired by objectors or the Board in order to expedite consideration of the application. Informal communications between the Board's consultants or experts and those for the applicant shall be permitted outside the context of public meetings. The applicant shall reimburse the municipality for the expenses incurred by the municipality in having Board professionals and experts participate in such communications and such amounts shall be deducted from escrow deposits made by the applicant with the municipality.

2:2-8. Viewing by Board; Personal Knowledge of Board Members. Viewing the property that is the subject of the application shall be permitted upon reasonable notice to and consent of the parties. In that event, or in the event that one or more members of the Board are well acquainted with the subject property, knowledge thereby acquired of any particular fact or facts may be used in making a decision if such member or members establishes such facts on the record at the time of the hearing. The applicant, any objector, or any interested party shall have an opportunity to refute such facts. However, in the event that Board members visit the subject property or have historical or other knowledge of the subject property and no reference is made to the same on the record, it will be presumed that such facts were not necessary to reach an informed decision and merely helped such members to understand the evidence presented to them at the hearing. The applicant, any objector, or any interested party shall have an opportunity to refute such facts. The absence of references to site visits and impressions shall not vitiate any decision otherwise reached on adequate grounds. The Planning Board may also elect to conduct a field trip visit to the subject site or comparable sites and such field trips shall be conducted pursuant to notice given pursuant to the Open Public Meetings Act and shall be open to the public. Each applicant shall, at the time of filing its application, sign a consent form permitting members of the Planning Board, and members of concerned Freehold Township agencies, boards, commissions and staff to visit and enter upon the site for these purposes.

2:2-9. Evidence; Exhibits. The formal rules of evidence adopted by the courts of the State of New Jersey shall not be enforced in the proceedings before the Planning Board. However, no decision shall be based upon any facts not proved or on matters which are not on the record unless they be such items of which the Board is entitled to take judicial notice. When any documents or exhibits are admitted into evidence during or for purposes of a hearing, they shall be marked and shall be retained by the Board as part of the permanent file. After the Board has rendered its decision and the time for filing an appeal has expired, the Board Secretary may return any such exhibits or documents to the person who offered them upon request. Any evidence presented, whether by testimony or by documents and exhibits presented for the purpose of the hearing(s), which are not questioned or controverted by any

other party or by any member of the Board, may be deemed to be true by the Board for purposes of its decision. The Board may limit irrelevant, immaterial or redundant testimony.

2:2-10. Effect of Covenants, Judgments and Other Regulations Affecting Land Use and Questions of Title. The Planning Board is established for the sole purpose of exercising the powers conferred upon it by the Municipal Land Use Law. The Board is authorized by local ordinance only to hear matters within the purview of that ordinance. A restrictive covenant shall be construed as being in the nature of a private contract which may be enforceable either by a Grantor or other protected party. Such a covenant shall not affect the jurisdiction of the Board, and the grant of relief by this Board shall not affect the validity of any restrictive covenant. The existence of a covenant shall generally have no bearing on the Board's determination, unless a restrictive covenant was imposed as a condition of prior relief to the benefit of the public. Based upon the submissions of the applicant the Board shall be entitled to presume that the applicant owns the affected premises or has the appropriate consents to pursue the application under the requirements of the State Municipal Land Use Law. While the Planning Board is without jurisdiction to determine questions of title, where the Board receives counsel from its attorney, engineer and other consultants that there is a high probability that the applicant does not own the property or does not have proper legal authority to process the application, the Planning Board may deny the application without prejudice based on a lack of jurisdiction until such time as issues of title are resolved in an appropriate forum.

2:2-11. Letters and Petitions in Objection. Letters of objection and petitions shall not be admissible, though the writer of a letter or the signer of a petition may appear and testify.

2:2-12. 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 2:3. Voting.

2:3-1. Voting Procedure. All motions shall require a second. The Chairperson shall allow discussion on any motion made and duly seconded. All votes constituting final action on an application shall be taken by roll call, and the vote and name of the member casting the vote shall be recorded in the minutes. Unless otherwise provided herein or under prevailing law, any action may be authorized by a majority vote of the members present at such meeting. When acting upon applications pursuant to N.J.S.A. 55D-70(d) an affirmative vote of five (5) members shall be required for approval of any such application.

2:3-2. 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.

2:3-3. 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 affirmation; 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.

2:3-4. Voting Eligibility; Review of Record. When any hearing before the Board has been continued, a member of the Board who was absent for one or more hearing sessions shall be eligible to vote on the matter upon which the hearing is conducted notwithstanding the member's prior absence provided that such member certified in writing to the Board that he/she has read a transcript or listened to a recording of the entire session for which he/she was absent. This rule shall not be construed as authorizing any hearing to be held whenever less than a quorum of the Board is present.

Rule 2:4. Other Hearing Requirements and Procedures.

2:4-1. Record of Proceedings. The record shall mean the application forms, any exhibits or other documents submitted to the Board in support thereof, maps, proper submissions by interested parties, and the verbatim record of the hearings. The minutes of the meetings of the Technical Review Committee and the notes of the Planning Board Secretary shall also be considered both a summary of the record and part thereof.

2:4-2. Transcripts. The Board shall furnish a transcript of the hearing or duplicate recording in lieu thereof to any interested party at his/her expense, unless the Municipality shall assume all or part of the expense of any transcripts needed for review. The option as to whether to furnish a duplicate recording or a transcript lies entirely with the Board and the Municipality. Interested parties shall not be charged more than the maximum permitted in N.J.S.2A: 11-15.

2:4-3. Inability to Make Verbatim Record. If at the time set for hearing, a verbatim record cannot be made for good reason, as where recording equipment is inoperable, the Board shall, if time is not a factor, continue the hearing to another date. However, if time is a factor, and if all interested parties present agree, the Board may proceed with the hearing on the understanding that in the event of an appeal or further review, an agreed statement of facts will be supplied to the reviewing body. In the absence of such agreement, where time is a factor, the Board shall be entitled to deny the relief sought in order to prevent a statutory approval by reason of the Board's failure to make a decision within the required time.

2:4-4. Subpoenas; Contempt. The Chairperson and the Board Attorney shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of the county and municipal investigations law, N.J.S. 2A:67A-I et seq. shall apply. Any person under subpoena who refuses or fails to appear or refuses to be examined or answer any proper questions or to produce any books, papers, documents or tangible things in accordance with the subpoena, shall be subject to the proceedings in the Superior Court for an Order to compel him to do so. If a person subject to subpoena shall engage in contemptuous conduct at any hearing, the Board may apply to the court to compel such person to refrain therefrom, and may seek costs and fees in connection therewith.

2:4-5. Perjury. Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J. S. 2A:67A- I et seq.) be guilty of perjury.

2:4-6. Judicial Notice. The Board may take judicial notice of such matters as are so notorious as not to be the subject of reasonable dispute, including matters of common knowledge, and provisions of the Municipal Land Use Law and the Freehold Township Land Use Ordinance.

2:4-7. **Dismissal Without Prejudice.** The Board, on its own motion, may dismiss any action without prejudice if neither the applicant nor anyone on his/her other behalf appears at the time set for the hearing of said application. Further, the Board, on its own motion, may dismiss, without prejudice, any application for failure to comply with these rules. Any applicant may, at any time before the commencement of the hearing, voluntarily withdraw his/her application, in which case, the application shall be dismissed without prejudice. The Board reserves the power to impose reasonable terms and conditions on the dismissal of any application.

2:4-8. **Amended Applications.** An applicant may, prior to the commencement of a hearing, amend his/her application provided that all applicable fees are paid. If revisions result in substantial amendment to the layout of improvements in the project or otherwise substantially change the character thereof and the amendments are proposed after the Board has commenced public hearings on the application, the Board shall require the applicant to re-notice all concerned parties in the manner provided in the State Municipal Land Use Law and the Freehold Township Land Use Ordinance.

2:4-9. **Time of Decision Rule.** Deleted to the extent inconsistent with the provisions of NJSA 40:55D-10.5

2:4-10. **Conditions.** The Board shall have plenary power and discretion to impose conditions. The conditions shall be development-specific and predominantly aimed at mitigating specific concerns arising in connection with the proposed project. Such conditions shall not be deemed exclusive, and the applicant shall be subject to terms and conditions of approval that are expressed and implied at law, including those imposed pursuant to ordinance as applied uniformly to every development application. The right to impose conditions is an inherent power of the Board that exists regardless of whether the ordinance grants such a right to the Board. To be enforceable, a condition must be part of the record. Conditions must not offend against any provisions of the Land Use Ordinance, must be in the public interest, must be reasonably calculated to achieve a legitimate objective of the ordinance and shall not be unnecessarily burdensome to the applicant and /or owner. The Board shall have the power to require that conditions be fulfilled within a stated period of time. The Board may require that some or all conditions of approval, or the resolution itself, be recorded with the County Clerk along with any maps for filing.

2:5. **Extensions of Time to Act.** Any request for an extension of time within which the Board has to act shall be in writing and shall be for a minimum of 180 days. In those circumstances in which extensions are granted by the Board in the absence of a pre-existing writing then such extensions shall automatically be deemed to be for 180 days and shall be confirmed in writing by the Applicant as soon thereafter as possible.

SECTION III. TAKING ACTION ON APPLICATIONS:

Rule 3:1. Decisions.

3:1-1. **Decision Based on Evidence.** Each case shall be decided strictly on the basis of the facts adduced at the hearing viewed in light of the statutory and ordinance requirements. The Board is a quasi-judicial body whose function is to apply the facts adduced at the hearing to the legal requirements of the statute and ordinance and to decide whether the requested relief can be legally granted or not. The number of opponents or objectors present, or even the fact that no objections are heard, shall be only of secondary importance unless the Board finds that the absence of objection is evidence that relief

can be granted without substantial detriment to the public good. The facts adduced at the hearing, all testimony and all evidence on which the Board makes its decision must be part of the record and the Board's decision must include findings of the facts from the record on which it made its decision and conclusions on the points of law raised. The Board's decision must be made at a public meeting and the Board's vote on the making of its decision and the adoption of its resolution must be taken at a public meeting.

3:1-2. **Alternative Relief.** The Board shall have the discretionary power to grant relief other than the precise relief or portion thereof sought by the applicant provided that interested parties shall have received reasonable notice of the fact that such relief might be granted.

3:1-3. **Reservation of Decision.** The Board may decide to reserve decision on a matter after the hearing is completed and may make its decision at the next meeting provided that the period within which to decide the application will not expire prior to the next succeeding meeting. It is the policy of the Board to authorize the Board Attorney to prepare a resolution for consideration at the next meeting. The making of a motion to have a resolution prepared for consideration shall not be construed as the making of a decision, but shall be only an indication of an intention to act upon an application in a certain manner. The Board shall not be bound by such measure. In extraordinary circumstances the Board may render its decision and authorize a memorializing resolution as hereinafter provided.

3:1-4. **Memorializing Resolution.** After a decision has been reached by the Board as to whether the relief requested by the applicant is to be granted or denied and upon what terms, the Board's findings of fact and conclusions of law must be embodied in the form of a written resolution. When the Board votes to adopt a resolution, the findings and conclusions set forth in the resolution become the findings and conclusions of the Board. It shall be immaterial that at the time of voting certain Board members may have given other reasons or discussed matters not addressed in the resolution; nor shall it be necessary that Board members articulate particular reasons for reaching a decision at all, it being sufficient that the application be either approved or disapproved by a voice vote and that thereafter a memorializing resolution is adopted. The Board Attorney shall prepare the resolution in such a way as to give the greatest possible support to the decision which has been made by the Board. Once the resolution has been prepared and has been voted on favorably by the members of the Board, it shall become a memorializing resolution of the decision of the Board. It is the general policy of the Freehold Township Planning Board that memorializing resolutions be employed only in extraordinary circumstances.

3:1-5. **Contents of Resolution; Publication.** A copy of the Board's resolution shall be furnished to the applicant and his/her attorney within ten (10) days from the date of the Board's decision. The Board's Secretary shall cause notice of the Board's action to be published, once, in the official newspaper of the municipality, in accordance with the provisions of the MLUL. The resolution of the Board shall contain:

- (a) a statement of the Board's findings of fact and its conclusions of law, the Board's decision, any conditions imposed upon the relief granted, including the mandatory conditions hereinafter described, or other provisions as the Board may deem appropriate and necessary.
- (b) every resolution of the Freehold Township Planning Board shall contain certain mandatory conditions as follows:
 - (i) a condition requiring the payment of any additional escrow fees required pursuant to the Freehold Township Land Use Ordinance.

- (ii) a condition requiring the applicant to comply with any condition contained in the record of the proceedings in the matter including the reports of Freehold Township agencies, commissions, boards and staff unless such condition has been specifically waived by the Board.
 - (iii) a condition requiring that if the applicant proposed any dedication of land to the Township of Freehold, the approval shall be conditioned upon acceptance by the Freehold Township Committee of any such land.
 - (iv) conditions requiring that if the applicant is to obtain approval from other governmental agencies having jurisdiction over any aspect of the development and such governmental agencies require any changes or adjustments to the plans approved by the Board then any such revised plan shall simultaneously be submitted to the Board and if such changes or adjustments are substantial the Board may require the applicant to appear before the Board for further action.
 - (v) a condition that the applicant submit to the Planning Board within ninety days of the date of the adoption of the Resolution any revised plats, maps, reports or other data containing additions or corrections specified in the record of the proceedings. No construction permit shall issue nor shall any map or plat be signed until this condition is satisfied and in the event that revised data is not submitted within the ninety day period the Board shall presume the applicant does not intend to submit the revisions and therefore the approval shall be rendered null, void and of no further effect.
 - (vi) a condition requiring contribution to the Freehold Township Affordable Housing Fund, if the application is subject to that ordinance.
- (c) Where the Board has determined to impose additional conditions on the relief granted, such conditions shall be clearly set forth in the resolution . The Board may, when it is deemed necessary to protect the interest of the public, specifically provide in its resolution for the retention of jurisdiction over the matter before the Board for a reasonable time. Such time may be specifically set forth or may be conditioned on the happening of a certain event. The purpose of such retention of jurisdiction shall be to enable the Board without limitation to vary the terms of any conditions therein imposed or to impose additional conditions, in the public interest, in light of the then existing circumstances; or to permit the Board to finalize its action with respect to its other powers, as granted to the Board by statute and/or ordinance. However, nothing herein contained shall be construed to limit the Board's inherent power to modify a decision for good cause shown, irrespective of whether the Board has expressly retained jurisdiction;
- (d) The resolution shall set forth, with specificity, the relief granted to the applicant. The Board may grant such relief as it deems appropriate and in keeping with the intent and purpose of the appropriate ordinance, as the case may be, although the relief granted may be different in kind or degree from that requested in the application.

3:1-6. Nature of Resolution Drafts. A resolution prepared by the Board Attorney and transmitted to the Board for consideration at its next meeting shall be considered a draft document and shall not become a matter of public record until duly adopted by vote of the Board. A copy of the drafted resolution shall be sent to the Attorney for the applicant in advance of the meeting for comment. The Board Attorney may thereafter amend the draft Resolution prior to consideration by the

Board to correct typographical and other non-substantive errors. If any substantive change shall be made the Board attorney shall announce the nature of the change for the Board's consideration prior to the Board's taking action.

3:1-7 Posting of Resolutions. The Secretary of the Planning Board shall cause a complete copy of the draft Resolution to be posted on the bulletin board reserved for that purpose in the Municipal Building at least twenty-four hours prior to the meeting at which the Resolution is to be considered. The draft Resolution shall also be provided to all members of the Planning Board at least twenty-four hours prior to the meeting at which the Resolution is to be considered. The Planning Board need not read any Resolution in its entirety before taking action provided that the posting and delivery provisions of these Rules have been met. Thereafter voting upon the Resolution may be by reference to same.

3:1-8. Time of Memorialization. If applicable the resolution of memorialization shall be adopted within forty-five (45) days of the decision. Such resolution of memorialization shall be adopted by a majority vote of the members of the Planning Board who voted in favor of the action previously taken. No other member shall vote thereon.

3:1-9. Publication of Notice of Decisions. A copy of the decision shall be mailed within ten (10) days of the date of the decision to the applicant or his/her attorney without charge, and to all who request a copy of the decision for a reasonable fee. A copy of the resolution shall be filed in the office of the Administrative Officer and shall be available to the public upon adoption. A brief notice of the decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the Administrative Officer. Nothing herein contained shall be construed as preventing the applicant from arranging such publication if so desired. The municipality may make a reasonable charge for its publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the municipality or the applicant. The date of adoption of the memorializing resolution shall constitute the date of decision for the purpose of mailings, filings, and publications.

Rule 3:2. Rehearing; Modification.

3:2-1. Misrepresentation, Fraud, Mistake. The Board may presume that all material statements of fact are true. The Board may also presume that all exhibits, maps and other documents submitted are true and accurate representations of all facts which such materials have been introduced to substantiate. In the event that it later appears to the Board on reasonable grounds that an applicant or witness has not been truthful, or that a mistake has been made, and such circumstances bear on facts which are essential in the granting of the relief sought by the applicant and were relied upon the Board in taking such action, then, upon discovery of such misrepresentation, fraud or mistake, the Board may rehear the matter either upon application of an interested party or on its own motion when unusual circumstances so require in the interest of justice. In such event, the Board may, upon notice directed to the applicant and all other interested parties, require the applicant to appear before it for the purpose of explaining the testimony previously given at the hearing. At such subsequent hearing it may be determined whether or not the testimony as given at the original hearing was in fact false. Mistake or fraud in proceedings, left uncured, shall constitute grounds for rescission.

3:2-2. Rehearing. An applicant or other interested party may, by right, within forty-five (45) days after the publication of notice of the decision, move the Board for a rehearing of the matter or a

portion thereof for the reasons provided in Rule 3 :2-1 by filing an application in the form of a letter addressed to the Board containing a brief statement of the grounds relied upon. If the motion is granted by the Board, it shall fix a date for rehearing and shall require the moving party to give notice to all persons who participated in the original hearing or hearings, upon such terms as the Board may deem adequate. The Board may order a rehearing on its own motion when unusual circumstances so require in the interest of justice. Any motions to rehear an application or portion thereof made after forty-five (45) days following the publication of decision shall be considered strictly by leave and discretion of the Board in consideration of the protected interests of the applicant as balanced against the public interest.

3:2-3. Vacation or Modification. At any time after the adoption of a resolution any person having an interest in such decision may move the Board for an order vacating or modifying any term or condition of said decision by filing with the Board a petition in the form of a letter setting forth the reasons therefor and the grounds relied upon. If the petition is granted, the Board shall fix a date for hearing and the movant shall give notice of such hearing in the same form and manner as otherwise required in the case of original applications. The Board, on its own motion, may, in a proper case, similarly order all parties in interest to show cause at a time and place fixed in the notice why the terms or provisions of any variance ought not to be vacated or modified.

3:2-4. Res Judicata If the same parties or their privies seek the same relief in the same factual setting, the case may be dismissed on the ground that it has already been decided. However, if the first case was not a decision on the merits, there shall be no bar to the second application. If a second application seeks relief which is entirely different or is of lesser proportions than in the first application, the second application shall not be barred. An applicant shall also be given a fair opportunity to show that circumstances have changed significantly or that other good cause exists for reconsideration. This rule shall not be construed to disallow an application for modification or enlargement of an approval or for the lifting or relaxation of conditions previously imposed in connection with an approval upon a proper showing of changed circumstances or other good cause warranting a reconsideration.

SECTION IV. AVAILABILITY AND ELIGIBILITY OF MEMBERS:

Rule 4:1. Alternate Members.

4:1-1. Mayoral Designee. If appointed by the Mayor of the Township of Freehold there shall also be a Mayoral Designee.

4:1-2. Appointment of Alternate to Serve on Case. During the absence or disqualification of any regular member, the Chairperson shall recognize one of the alternate members to serve in the place of said regular member; provided, however, that where the alternate member is designated to serve in place of a regular member who is disqualified from participating in the hearing of a particular case, the alternate member shall be designated to serve only with respect to such case unless otherwise needed to fill an absence of a member.

4:1-3. Alternate to Serve Until Final Disposition. In the event of disqualification of a regular member for any hearing or matter, an alternate member who has been designated to sit in place of a regular member and who has participated in such hearing or matter coming before the Board shall continue to act in the place of such regular member until the final disposition of said matter by the Board.

4:1-4. **Alternate No. I to Vote.** In the event that a choice must be made as to which alternate member is to vote, Alternate No. I shall vote.

4:1-5. **Alternate Not to Serve at Adjourned or Continued Hearing Unless Present at Prior Hearings.** When a member has been present and **has** participated in the first hearing on any matter no alternate member shall be designated to serve during the absence of such member during any adjourned or continued hearing or hearings on the same matter unless said alternate member was present at such first hearing or any prior adjourned or continued hearing on such matter.

4:1-6. **Rights and Privileges.** An alternate member who has been designated to serve in the place of an absent or disqualified member shall, during the period of service, enjoy all of the rights and privileges and shall be subject to all of the duties and disabilities pertaining to members if the alternate member is eligible in all pertinent respects, provided, however, that no alternate member shall be eligible to serve as Chairperson or Vice-Chairperson of the Board.

4:1-7. **Participation in discussions; Voting.** Alternate members and the Mayoral Designee if any, may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member, nor shall any vote be delayed in order that a regular member may vote instead of an alternate member..

Rule 4:2. Rule of Necessity.

4:2-1. **Appointment of Additional Members.** If the Board lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to the member's personal or financial interests therein as regulated under Rule 4:3 or prevailing law, then a sufficient number of disqualified members shall be authorized to act. The number of such disqualified members shall be limited strictly to the number necessary to establish a quorum. This procedure shall be invoked only when the direct and proximate cause of a lack of quorum is the disqualification and not the mere absence of one or more members of the Board.

Rule 4:3. Disqualification for Interest.

4:3-1. **Disqualification Generally.** No member of the Board shall be permitted to act on any matter in which he/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/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/her sworn public duty.

4:3-2. **Local Government Ethics Law.** The members of the Board shall comply with and be bound by the provisions of the Local Government Ethics Law, N.J. S. 40A:922.1, et seq. and shall annually file a statement as prepared by the local Finance Board and the Division of Local Government Services, Department of Community Affairs. Pursuant to such law, no Board member shall act in his/her official capacity in any matter where he/she or she, a member or his/her immediate family or a business organization in which he/she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgment. To the extent that the word "involvement" as cited hereinabove extends the reach of the law beyond "interest," the same may be considered a source of disqualification and shall be closely examined

by the Board. Any interest or involvement of the Board member that is not shared in common with other members of the public shall be examined to determine eligibility.

4:3-3. Examples of Disqualification for Interest. Any member of the Board shall disqualify himself or herself from sitting on the hearing of any matter in which he/she has a disqualifying interest, such as, but not limited to, the following situations:

(a) where the member owns property located within two hundred (200) feet of the property affected by the action;

(b) where the applicant is related within the third degree of consanguinity to the member by blood or is the husband or wife of any person so related;

(b) where the applicant or his/her attorney is the employer, employee, or partner of the member, or is a corporation in which the member is a shareholder or has other financial interest;

(d) where the member has any other personal or pecuniary interest in the proceeding.

4:3-4. Removal From Board. Any member having been deemed or having deemed himself or herself disqualified in any matter shall not sit with the Board to participate in the consideration of such matter. The nature of any such disqualification shall be disclosed at the time of refusal unless doing so would constitute an unwarranted invasion of individual privacy or could adversely affect the public interest. Such member may be heard at the appropriate time as an interested party or applicant, but whenever such member appears before the Board on his/her own behalf or by legal representative, it shall be disclosed that the member's comments are made solely to exercise or protect private rights and are not expressed as a member of the Board. Every effort shall be made by such member to avoid the possible influence of fellow Board members and the appearance of impropriety from the point of view of the general public.

4:3-5. Disclosure of Possible Conflicts; Waiver by Parties. Where conflict is only possible and not actual by virtue of involving, either directly or indirectly, any personal or financial interest, such conflict need not necessarily result in a disqualification but should be disclosed. For purposes of illustration, prior dealings and friendships should be disclosed so that disqualification can be considered on an informed basis. Disclosure of interest is necessary in order to judge whether a particular interest is sufficient to disqualify or is remote and speculative. Concern for the impartial exercise of authority, in appearance as well as in fact, requires that where a member of the Board must disqualify himself or herself in a matter because of a conflict of interest, the disqualification is absolute and cannot be waived. However, if a conflict is only potential and is disclosed, the Board may reasonably find that a particular interest is too remote or speculative to cause a disqualification. The Board Attorney shall be consulted in each such case. Whenever the Board is called upon to waive a potential conflict, the affected Board member shall disclose the nature of the relationship and shall satisfy the Board that the relationship would not in any way influence his/her decision.

4:3-6. Remedy. When a member fails to disqualify himself or herself where the circumstances require disqualification, any interested party may move the Board for an order or determination that such member is or was disqualified to act and may, even after decision, seek the vacation of the decision and a rehearing or other appropriate relief. The motion shall contain a statement of the facts upon which it is based, and the Board may thereupon hold a hearing on the matter or take whatever action it may deem appropriate.

4:3-7. **Disclosure of Reason for Disqualification.** Wherever possible, the reason for disqualification shall be stated unless legitimate private rights would be compromised without justification in respect of the public interest.

Rule 4:4. Attendance.

4:4-1. **Determination of Vacancy for Excessive absences.** The position of any member or alternate member shall be deemed vacant whenever the member, without being excused by a majority of the authorized members of the Board, fails to attend and participate at meetings of the Board for a period of eight (8) consecutive weeks or for four (4) consecutive meetings (both regular and work sessions) whichever shall be of longer duration, at the conclusion of such period, provided that the Board shall notify the appointing authority in writing of such determination, and provided further that the Board may refuse to excuse only those absences which are not due to legitimate illness. In the event of such notice, the approving authority shall forthwith fill the vacancy for the unexpired term in a manner prescribed by law. This rule shall be automatically amended by operation of law in the event that the above standards are made more strict pursuant to amendment henceforth of N.J. S.40A:9-12. 1 or other relevant prevailing enactment, in which event the language of this rule shall be deemed substituted by the language of such enactment.

SECTION V. MISCELLANEOUS MATTERS:

Rule 5:1. Fees.

5:1-1. **Application Fees.** No application shall be considered which is not accompanied by an application fee in accordance with the schedule of administrative fees for development applications as amended and in effect at the time application is made.

5:1-2. **Escrow Deposits for Professional Services.** No application shall be considered with respect to which an applicant has failed to comply with the prevailing local ordinance or statutory requirements for the payment of escrow deposits toward anticipated municipal expenses for professional services, to be based upon a schedule established by resolution. The amount of the initial deposit shall be established by ordinance. The applicant and the Board shall be bound by the provisions of N.J.S.40:55D-53.2 and/or prevailing ordinance requirements as to their respective interests and duties.

5:1-3. **Special Meeting Costs.** In the event that a special meeting is scheduled and convened for the benefit of an applicant pursuant to Rule 1:3-3, any special or uncustomary disbursements, expenses, fees or costs incurred by the Board and the Municipality for the rendering of special services, arrangements or accommodations for the benefit of the applicant shall be reimbursed entirely by the applicant. The Board may require a reasonable antecedent escrow deposit to protect against an applicant's failure to comply with this section.

Rule 5:2. Committees

5:2-1. **Standing Committees.** There shall be the following standing committees of the Board which shall have the functions described: (A) Minor Subdivision Committee; the Minor Subdivision Committee shall conduct a preliminary review of all Minor Subdivision applications and report to the Planning Board the following: (i) that the application qualifies as a Minor Subdivision and may be processed expeditiously in accordance with the State Municipal Land Use Law and the Freehold Township Land Use Ordinance or; (ii) that the application does not qualify as a Minor Subdivision and must be processed as a Major Subdivision and/or; (iii) that the application involves the granting of variances or waivers **and/or**; (iv) that there are any other special problems or conditions affecting the application. (B) Mall Committee; the Mall Committee shall conduct a preliminary review of any proposed Land Use Application or Sign Appeal Application related to any development within the RMZ Zones as set forth in the Freehold Township Land Use Ordinance. The Committee shall report to the Planning Board as to whether any such application conforms with Zoning requirements, adequately addresses site concerns, aesthetic concerns and shall comment upon and make recommendations concerning any other aspects of a development application which the Committee determines are relevant and important to the Board's consideration and disposition of such application. (C) Sign Review Committee; pursuant to Section 190-22(C) of the Freehold Township Land Use Ordinance, the Sign Review Committee shall perform the functions and discharge the obligations as set forth in said ordinance. (D) Master Plan Review Committee; the Master Plan Review Committee shall be responsible for undertaking investigations and rendering reports and recommendations to the full Planning Board concerning all aspects of the Master Plan of the Township of Freehold and its various elements. This shall include monitoring of the Master Plan toward concluding the successful periodic re-examination of the Master Plan as required by NJS40:55D-89 as well as recommending amendments to the Plan and its elements pursuant to NJS40:55d-28. (E) Field Adjustment Committee; the Field Adjustment Committee shall consider proposed minor changes, adjustments or additions to a Plan previously approved by the Planning Board where work is in progress. If the Field Adjustment Committee determines that a proposal qualifies as a minor field adjustment that is, that it does not constitute a substantial amendment of the layout of improvements previously approved by the Board and will result in continued compliance with all Zoning requirements and design criteria and conditions imposed by the Board, the Field Adjustment Committee may permit the developer to proceed to implement the minor change addition or adjustment. The Field Adjustment Committee shall report to the Planning Board of the Board's next regularly scheduled meeting as to any actions taken in this regard. The developer shall be required to file amended plans reflecting any such field adjustments so that the development as finally constructed is consistent with the information contained in the Planning Board file. (F) Technical Review Committee; the Technical Review Committee shall perform those functions set forth in Section 1:1-6 of these Rules and Regulations. (G) Hospital Committee; the Hospital Committee shall review all applications pertaining to development at the Centra State Medical Center as well as any applications for development on any of the lands zoned for development of hospital or hospital related uses. The Hospital Committee shall report its findings and recommendations to the Planning Board for consideration in processing any such application. (H) Submission Waiver Committee; Pursuant to N.J.S.A. 40:55D-10.3, the Committee is authorized to grant waivers of the checklist submission requirements for determination of completeness as set forth in Section 190-4(B) of the Freehold Township Land Use Ordinance and associated with applications for site plan or subdivision approval. The grant of such waivers by the Committee shall not be construed as diminishing the Applicant's obligation to prove in the process that the Applicant is entitled to approval of the application nor shall it be deemed to limit the power of the Planning Board to subsequently require that items waived by the Committee be supplied as a part of the approval process.

5:2-2. **Committee Composition.** The standing committees shall comprise not less than three (3) nor more than an effective majority of the Board and may also be comprised of staff and consultants and such other Township officials as the Chairperson determines are necessary for the proper discharge of Committee duties.. The Chairperson shall annually appoint the members of each committee for a one (1) year term. Not more than one alternate member may serve on any standing committee.

5:2-3 **Special Committees.** Special committees may be established by a vote of the majority of the full membership of the Board. The Chairperson 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 5:3. Payment of Taxes.

5:3-1. **Proof of Payment; Alternative Agreement.** The applicant, at the time of filing the application for development, shall file with the Board a certification of the Tax Collector that municipal taxes and/or assessments have been paid. In the event that taxes and/or assessments on the property affected by the application for development are unpaid, the Board may continue to process the application and may conduct public hearings thereon, if required, but shall not take any action on the application, including the authorizing of a Resolution of Approval unless and until the applicant presents proof that taxes are paid and current.

5:4 **Suspension of the Rules.** Unless the rules, regulations and procedures contained herein are mandated by the New Jersey State Municipal Land Use Law or the Freehold Township Land Use Ordinance, the Planning Board may, by a majority of a quorum of members present, suspend these rules, regulations and procedures where the interests of justice and the best interests of the Township of Freehold will be served thereby.

5:5. **Amendments to the Rules.** The Planning Board may, from time to time, by a twothirds (2/3) margin, 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 least three (3) days prior to such meeting. In no case, however, shall any rule, 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.

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